

*KENTUCKY
DEPARTMENT OF PUBLIC ADVOCACY's*



DEFENDER CASELOAD REPORT
Fiscal Year 1998 - 1999

Erwin W. Lewis
Public Advocate
November 1999

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DPA DEFENDER MISSION STATEMENT

Provide each client with high quality services through an effective delivery system, which ensures a defender staff dedicated to the interests of their clients and the improvement of the criminal justice system.

DIVISION MISSION STATEMENTS

Law Operations

As a team, effectively and efficiently provide all critical support services to our internal and external DPA customers to meet the agency's mission of high quality representation of clients.

Trials

Serve as leaders of the criminal defense bar in every community across the Commonwealth by providing high quality representation for every client facing loss of life or liberty at the trial level.

Post-Trials

Through high-quality representation, defend the life and liberty of post-trial clients and protect the statutory and constitutional rights of those the state has incarcerated or confined.



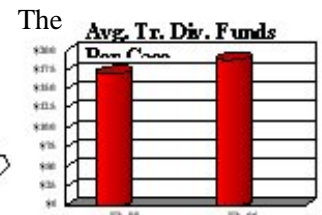
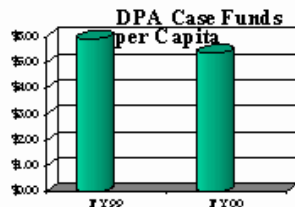
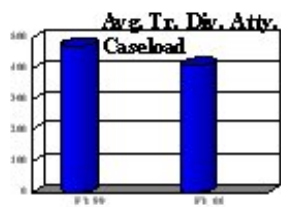
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Executive Summary

As Public Advocate for the Commonwealth of Kentucky, let me take this opportunity to thank you for your interest in the state's public defense system. And, please join me in congratulating Department staff on the completion of a busy, productive year.

Focusing on the work of the Department's Trial and Post-Trial Divisions, the *Annual Caseload Report, Fiscal Year 1999-2000*, offers readers an overview of the public defense units' achievements during the period. However, although statistical reporting is important, I believe it must be reviewed in context with the less tangible records of an organization's accomplishments. Somewhat more gratifying to the heart of a committed advocate for the rights of the indigent accused, such as myself, are the daily human stories that make our work worthwhile – the innocent acquitted, the previously unrepresented championed, the challenged repaying their communities for their misdeeds while having the issues that brought them before the court of justice addressed.

In Fiscal Year 1999-2000, the Department of Public Advocacy: reduced average Trial Division attorney caseloads to 410 cases per year (down from 475 cases per year in Fiscal year 1998-1999); continued to experience a reduction in both per capita funds expended; and experienced an increase in funds expended per case. In addition, the Department experienced a number of less quantifiable changes due Trial Division successfully weathered the challenges imposed by high caseloads in many of its field offices through re-allocation of resources and strengthening the regionalization concept; and the Department successfully advocated in the 2000 Kentucky General Assembly for a significant budget increase that will, ultimately, provide improved salaries, reduced caseloads, more counties served by full-time staff, and increased attention to the Department's most intensive cases. to growth and improved operations: the Post-Trial Division expanded to include a fifth branch, Capital Appeals, to better manage the unique work of those special cases; the



last item was achieved through the concerted efforts of the Blue Ribbon

Group (begun in Fiscal Year 1998-1999), the Governor's Office of Policy Management, and many more individuals too numerous to name here. This unique achievement has allowed us to serve more communities, through more local offices, with the realistic hope of achieving our foremost organizational goals: statewide, full-time representation; caseload reduction to acceptable annual levels (350 cases annually in rural areas, 450 cases annually in urban areas); and adequate resources directed to juvenile and capital representation by the end of Fiscal Year 2003-2004.

Once again this year, I invite you to join me in congratulating those whose efforts have made this report possible – the staff of the Department of Public Advocacy.

Ernie Lewis
Erwin W. Lewis
Public Advocate



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Statement of Definitions: Cases and Case Counting Methods

Throughout this document, the following definitions and methods of case counting are used consistently.

A **case** consists of a single accused, having either under the same or different case number(s), one or more charges, allegations, or proceedings arising out of one event or a group of related contemporaneous events. These charges must be brought contemporaneously against the defendant, stemming from the same course of conduct, and involving proof of the same facts. Some cases assigned to individual attorneys are conducted, either wholly or in part, outside the confines of state courts (e.g., parole revocation hearings, KRS 31.110 line-ups, interrogations, other pre-charge events, witness representations); however, to be counted as a "case" for Trial Division statistical purposes, a formal appointment by a court with appropriate jurisdiction is required. An individual attorney's actions do not constitute a "case" (for agency statistical purposes) if the activity is brief, strictly routine (e.g., standing in for arraignment purposes at a regularly scheduled motion hour, responding to inmate correspondence), and performed as a courtesy to the court.

In addition to adhering to the general agency definition of a "case," to be counted as a **capital eligible case**, an accused must be charged with at least one count of kidnapping or murder, with a qualifying KRS aggravator identified. The number of attorneys assigned to the case has no bearing on the agency's counting of capital cases, and, because cases must be entered and categorized upon assignment, the agency does not require prior receipt of notice from the Commonwealth's Attorney that the death penalty will be sought.

DPA has extensive protocols for the application of case definitions and case counting methods that take into account the unique differences among circuit and district court cases, juvenile and adult cases, etc. These definitions were developed in concert with staff input, KRS requirements, and commonly accepted statistical methodology. Consistency of application is insured through the use of the agency's Case Tracking System (CTS), an in-house database.



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DEPARTMENT OF PUBLIC ADVOCACY

FISCAL YEAR 2000 REPORTED EXPENDITURES AND CASES

July 1, 1999 - June 30, 2000

TRIAL DIVISION

I. Part-Time DPA Trial Contract Counties: Total 39 Counties

Population	798,159
DPA Dollars ¹	\$944,649.01
Local Dollars	\$112,073.92
Direct Recoupment Dollars	\$418,797.04
Total Dollars	\$1,475,519.97
Reported Cases	9,201
Average Trial Contract Per Case Funding	\$160.37

II. Full-Time DPA Offices: Total 81 Counties, 25 Offices

Population	3,162,666
DPA Dollars	\$12,006,856.00
Local Dollars	\$1,530,545.00
Full-Time Contractual Office Recoupment Dollars	\$175,328.59
Total Dollars ^{2,3}	\$14,172,502.56
Reported Cases	86,146
Average Trial Full-Time Per Case Funding	\$164.52

III. Other Trial Division Expenditures

Capital Trial Branch	\$560,431.00
Conflict Contract Pool w/ Private Bar	\$349,877.00
Other Divisional Expenses (e.g., divisional administration, apportioned agency overhead rate)	\$1,486,054.98
Total Other Dollars	\$2,396,362.98

IV. Total Trial Division Expenditures

Total Trial Dollars	\$18,044,385.51
Total Trial Cases	95,347
Average Total Trial Per Case Funding	\$189.25

POST-TRIAL DIVISION

I. Appeals Branch⁴

In-House

Appellate Dollars	\$641,737.00
Appellate Cases	94
Average In-House Per Case Funding	\$6,826.99

"Of Counsel"

Appellate Dollars	\$157,865.00
Appellate Cases	209
Average "Of Counsel" Per Case Funding	\$755.33

Louisville Field Office⁴

Appellate Dollars	\$354,144.67
Appellate Cases	76
Average Per Case Funding	\$4,659.80

Lexington Field Office⁴

Appellate Dollars	\$38,450.11
Appellate Cases	69
Average Per Case Funding	\$557.25

Total Appeals Branch

Appellate Dollars	\$1,192,196.78
Appellate Cases	448
Average Per Case Funding	\$2,661.15

II. Capital Appeals Branch

Capital Appeals Dollars	\$326,322.00
Capital Appeals Cases	6
Average Per Case Funding	\$54,387.00

III. Capital Post-Conviction Branch

Capital Post-Conviction Dollars	\$730,778.00
Capital Post-Conviction Cases	39
Average Per Case Funding	\$18,737.90

IV. Juvenile Post-Dispositional Branch

Juvenile Post-Dispositional Dollars	\$613,061.00
Juvenile Post-Dispositional Cases	1,024
Average Per Case Funding	\$598.69

V. Post-Conviction Branch⁵

Post-Conviction Dollars	\$828,524.00
Post-Conviction Cases	954
Average Post-Conviction Per Case Funding	\$868.47

VI. Other Post-Trial Division Expenditures

Other Divisional Expenses (e.g., divisional administration, apportioned agency overhead rate)	\$412,311.92
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VII. Total Post-Trial Division Expenditures

Total Post-Trial Dollars	\$4,103,193.70
Total Post-Trial Cases	2,471
Average Total Post-Trial Per Case Funding	\$1,660.54

GRAND TOTALS

DPA Dollars	\$19,451,061.69
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Local Dollars	\$1,642,618.92
Recoupment Dollars	\$100,001.80
Total Dollars	\$21,193,682.41
Total Reported Cases	97,818
Funding Per Case	\$216.66
Population	3,960,825.00
Funding Per Capita	\$5.35

¹Includes Indirect Recoupment Dollars.

²Amounts spent by Lexington and Louisville's full-time, contractual trial offices on in-house appeals have been subtracted from Trial Division, Full-Time Office Totals. The amount, \$392,594.78 (apportioned at 3.6% and 9.4% to the respective offices), may be found in the Post-Trial Division's costs, and is based on historical benchmarks.

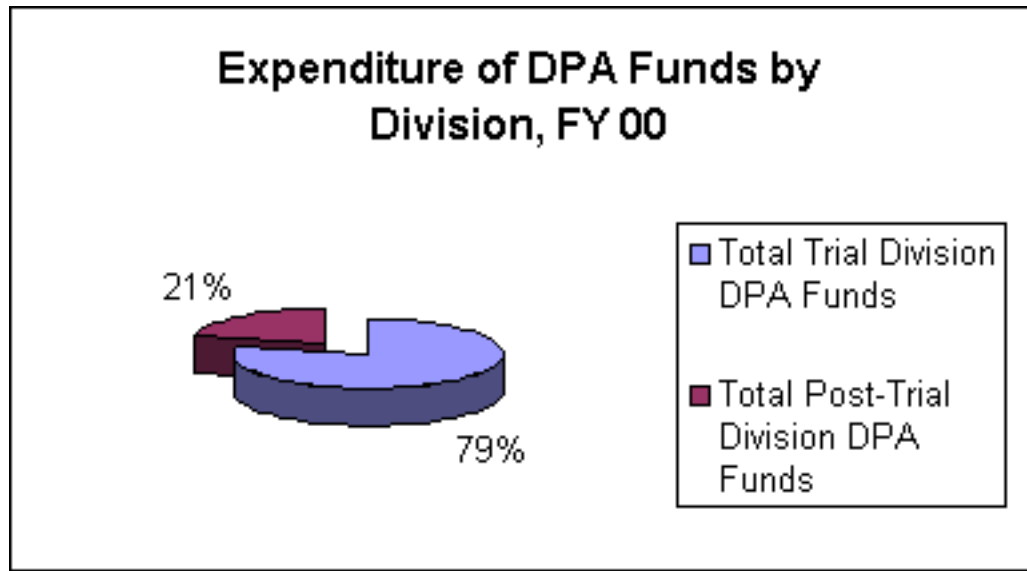
³Regional Manager expenditures, calculated separately from individual field office expenditures, have been added here, in the amount of \$846,504.00. These costs include administration and direct representation spread over multiple offices within each managers' region.

⁴For uniformity of measurement, only original briefs and original actions are counted here to determine funding per case; all entities providing appellate representation also provide additional services.

⁵An additional 1,951 Post-Conviction cases were handled by Lexington and Louisville's full-time contractual trial offices. Costs for these cases are not separated from Trial Division Totals due to the limited number and costs.

DPA Caseload by Division, FY 00





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DPA TRIAL LEVEL COST PER CASE ANALYSIS BY COUNTY -**FISCAL YEAR 2000**

I. PART-TIME CONTRACT COUNTIES: TOTAL 46 COUNTIES									
COUNTY	POP.¹	% PVTY.²	% UNEMP³	DPA\$	LOCAL\$	RCPMT\$	TOTAL\$	CASES	COST PER CASE
ALLEN	16,854	24.6	5.3	\$ 17,276.47		\$ 3,837.50	\$ 21,113.97	246	\$ 85.83
BALLARD	8,516	18.5	6.1	\$ 13,867.98		\$ 9,960.50	\$ 23,828.48	107	\$ 222.70
BARREN	37,355	21.5	5.2	\$ 58,028.37		\$ 30,961.70	\$ 88,990.07	732	\$ 121.57
BATH	10,741	27.3	6.1	\$ 25,775.40		\$ 1,120.00	\$ 26,895.40	393	\$ 68.44
BOONE	83,356	7.4	2.8	\$ 37,218.75	\$ 21,000.00	\$ 44,960.70	\$ 103,179.45	818	\$ 126.14
BOURBON	19,363	17.5	2.4	\$ 20,700.00	\$ 14,299.92	\$ 7,134.00	\$ 42,133.92	258	\$ 163.31
BOYLE	27,358	17.1	3.2	\$ 33,882.57		\$ 6,034.00	\$ 39,916.57	59	\$ 676.55
BRECKENRIDGE	17,728	23.2	6.3	\$ 20,737.08		\$ 2,340.00	\$ 23,077.08	83	\$ 278.04
BULLITT	60,955	10.4	3.2	\$ 59,262.00		\$ 20,374.00	\$ 79,636.00	602	\$ 132.29
BUTLER	12,019	23.8	5.6	\$ 13,156.41		\$ 4,300.00	\$ 17,456.41	135	\$ 129.31
CALLOWAY	33,293	17.7	4.2	\$ 38,120.15		\$ 40,471.51	\$ 78,591.66	367	\$ 214.15
CAMPBELL	87,203	11.0	3.2	\$ 114,600.00		\$ 36,126.90	\$ 150,726.90	1389	\$ 108.51
CARLISLE	5,386	17.7	6.4	\$ 9,668.40		\$ 6,605.05	\$ 16,273.45	35	\$ 464.96
CARROLL	9,775	22.0	4.2	\$ 19,600.00	\$ 3,756.00	\$ 22,799.47	\$ 46,155.47	173	\$ 266.79
EDMONSON	11,595	27.0	5.7	\$ 14,244.30		\$ 2,752.25	\$ 16,996.55	172	\$ 98.82
FULTON	7,451	30.3	10.3	\$ 22,785.46		\$ 35,920.70	\$ 58,706.16	326	\$ 180.08
GALLATIN	7,437	14.3	3.6	\$ 12,406.25	\$ 1,750.00	\$ 4,090.00	\$ 18,246.25	84	\$ 217.22
GRANT	20,805	15.1	3.9	\$ 14,000.00	\$ 15,000.00	\$ 8,717.99	\$ 37,717.99	101	\$ 373.45
GREENUP	36,732	17.6	6.4	\$ 43,100.00	\$ 22,200.00	\$ 8,224.00	\$ 73,524.00	133	\$ 552.81
HANCOCK	8,977	16.8	10.1	\$ 8,442.00		\$ 1,702.00	\$ 10,144.00	139	\$ 72.98
HARRISON	17,666	16.9	4.2	\$ 17,900.00	\$ 4,500.00	\$ 9,969.50	\$ 32,369.50	366	\$ 88.44
HICKMAN	5,146	20.1	6.0	\$ 11,883.94		\$ 11,210.88	\$ 23,094.82	94	\$ 245.69
LEWIS	13,471	30.7	13.9	\$ 17,200.00	\$ 24,200.00	\$ 2,920.00	\$ 44,320.00	244	\$ 181.64
LOGAN	26,276	16.1	3.4	\$ 42,993.09		\$ 4,283.12	\$ 47,276.21	71	\$ 665.86
MARSHALL	30,250	14.1	5.6	\$ 32,386.18		\$ 27,733.60	\$ 60,119.78	400	\$ 150.30
MEADE	29,195	12.8	4.4	\$ 28,399.30		\$ 790.00	\$ 29,189.30	161	\$ 181.30
MENIFEE	5,865	35.0	6.7	\$ 11,768.40	\$2,000	\$ 547.50	\$ 14,315.90	201	\$ 71.22
MERCER	20,809	16.7	3.1	\$ 23,084.88		\$ 3,004.00	\$ 26,088.88	78	\$ 334.47
METCALFE	9,596	27.9	7.0	\$ 11,183.76		\$ 3,925.87	\$ 15,109.63	145	\$ 104.20
NICHOLAS	7,126	22.6	4.0	\$ 11,200.00		\$ 5,420.75	\$ 16,620.75	138	\$ 120.44
OHIO	22,128	23.6	8.3	\$ 27,221.39		\$ 6,955.00	\$ 34,176.39	251	\$ 136.16
OWEN	10,418	19.5	3.0	\$ 14,000.00	\$ 368.00	\$ 18,573.50	\$ 32,941.50	42	\$ 784.32
PENDLETON	13,959	18.9	3.9	\$ 12,880.00		\$ 5,943.50	\$ 18,823.50	135	\$ 139.43
ROBERTSON	2,265	24.8	4.8	\$ 4,084.00		\$ 1,107.00	\$ 5,191.00	22	\$ 235.95
SIMPSON	16,587	15.5	3.2	\$ 34,476.28		\$ 8,176.52	\$ 42,652.80	156	\$ 273.42

SPENCER	10,441	19.2	3.4	\$ 10,500.00		\$ 475.00	\$ 10,975.00	72	\$ 152.43
TODD	11,289	18.8	3.0	\$ 16,216.20	\$ 3,000.00	\$ 1,447.50	\$ 20,663.70	57	\$ 362.52
UNIDENTIFIED	N/A	N/A	N/A	N/A	N/A	N/A	N/A	31	N/A
WOODFORD	22,773	7.9	1.6	\$ 20,400.00		\$ 7,881.53	\$ 28,281.53	185	\$ 152.87
SUBTOTAL	798,159			\$944,649.01	\$112,073.92	\$418,797.04	\$1,475,519.97	9,201	\$ 160.37

¹Source: U.S. Census Bureau, July 1, 1999, County Population Estimates.

²Source: Kentucky Commission on Poverty, *Families First* (Legislative Research Commission, Report No. 273). Last updated, December 31, 1997.

³Source: Kentucky Department for Employment Services, 1999.

II. FULL-TIME PUBLIC ADVOCACY OFFICES: TOTAL 74 COUNTIES; 23 OFFICES									
OFFICE/COUNTY	POP. ¹	%PVTY. ²	%UNEMP ³	DPA\$	LOCAL\$	RCPMT\$	TOTAL\$	CASES	COST/CASE***
BELL COUNTY				\$ 288,547.00					
BELL	29,028	36.2	5.6			\$ 6,927.50	\$ 6,927.50	1171	
HARLAN	34,273	33.1	11.1			\$ 3,925.00	\$ 3,925.00	325	
SUBTOTAL	63,301			\$ 288,547.00		\$ 10,852.50	\$ 288,547.00	1,496	\$ 192.88
BOWLING GREEN									
WARREN	87,683	17.5	3.3	\$ 216,040.00		\$ 5,863.75	\$ 221,903.75	3353	\$ 66.18
CATLETTSBURG*									
BOYD	48,843	16.5	6.7	\$ 86,000.00	\$ 184,000.00	\$ 18,243.35	\$ 288,243.35	694	\$ 415.34
COLUMBIA				\$ 315,343.00					
ADAIR	16,462	25.1	9.1			\$ 2,075.00	\$ 2,075.00	310	
CASEY	14,908	29.4	7.4			\$ 350.00	\$ 350.00	161	
CLINTON	9,464	38.1	3.9			\$ -	\$ -	426	
CUMBERLAND	6,876	31.6	6.6			\$ 117.50	\$ 117.50	93	
GREEN	10,595	21.6	13.7			\$ 1,260.00	\$ 1,260.00	222	
MARION	17,120	25.6	5.5			\$ 1,546.00	\$ 1,546.00	563	
MONROE	11,157	26.9	12.2			\$ 2,078.00	\$ 2,078.00	180	
TAYLOR	22,942	19.5	15.6			\$ 1,615.00	\$ 1,615.00	702	
WASHINGTON	11,047	18.8	3.9			\$ 920.00	\$ 920.00	259	
SUBTOTAL	120,571			\$ 315,343.00		\$ 9,961.50	\$ 315,343.00	2,916	\$ 108.14
COVINGTON									
KENTON	147,221	9.9	3.2	\$ 580,940.00		\$ 15,781.85	\$ 580,940.00	3,118	\$ 186.32

ELIZABETHTOWN*				\$ 650,404.00						
GRAYSON	23,828	23.8	6.2			\$ 350.00	\$ 350.00	471		
HARDIN	91,567	13.5	5.6		\$ 50,000.00	\$ 4,047.50	\$ 54,047.50	2768		
HART	16,864	27.1	5.1			\$ 10,555.25	\$ 10,555.25	335		
LARUE	13,150	19.9	4.8			\$ 5,214.75	\$ 5,214.75	237		
NELSON	36,971	15.1	6.0	\$ 20,000.00		\$ 12,937.00	\$ 46,819.57	437		
SUBTOTAL	182,380			\$ 670,404.00		33,105	\$ 670,404.00	4,248	\$ 157.82	
FRANFORT				\$ 328,391.00						
ANDERSON	18,807	9.3	2.9			\$ 1,946.25	\$ 1,946.25	139		
FRANKLIN	46,588	10.9	2.4			\$ 1,360.75	\$ -	840		
SCOTT	32,249	14.5	2.0			\$ 4,182.00	\$ 4,182.00	681		
SUBTOTAL	97,644			\$ 328,391.00		\$ 7,489.00	\$ 328,391.00	1,660	\$ 197.83	
HAZARD				\$ 500,128.00						
KNOTT	17,931	40.4	8.3			\$ 252.50		319		
LETCHER	26,069	31.8	9.1			\$ 8,508.75		815		
PERRY	30,805	32.1	7.8			\$ 2,987.00		2,067		
SUBTOTAL	74,805			\$ 500,128.00		\$ 11,748.25	\$ 500,128.00	3,201	\$ 156.24	
HENDERSON				\$ 266,797.00						
HENDERSON	44,410	14.6	4.3			\$ 8,824.50	\$ 8,824.50	1725		
UNION	16,499	22.1	6.3			\$ 19,669.55	\$ 19,669.55	412		
WEBSTER	13,460	16.5	7.0			\$ 15,731.28	\$ 15,731.28	291		
SUBTOTAL	74,369			\$ 266,797.00		\$ 44,225.33	\$ 266,797.00	2,428	\$ 109.88	
HOPKINSVILLE				\$ 485,505.00						
CALDWELL	13,366	19.9	4.6			\$ 5,074.75		399		
CHRISTIAN	71,941	18.1	3.8			\$ 39,652.10		2958		
CRITTENDEN	9,556	18.7	5.6			\$ 11,176.75	\$ 11,176.75	176		
LIVINGSTON	9,481	15.5	5.3			\$ 1,580.00	\$ 1,580.00	183		
LYON	8,060	14.3	4.9			\$ 840.00		102		
TRIGG	12,593	18.0	3.0			\$ 2,570.00		124		
SUBTOTAL	124,997			\$ 485,505.00		\$ 60,893.60	\$ 485,505.00	3,942	\$ 123.16	
LAGRANGE				\$ 231,866.00						
HENRY	15,023	19.7	3.5			\$ 1,229.95		147		
OLDHAM	45,821	6.3	2.0			\$ 2,320.50		212		
SHELBY	30,552	14.2	2.4			\$ 2,302.50		395		
TRIMBLE	7,926	16.3	2.8			\$ 245.00		103		

SUBTOTAL	99,322			\$ 231,866.00		\$ 6,097.95	\$ 231,866.00	857	\$ 270.56
LEXINGTON*									
FAYETTE	243,785	14.1	1.9	\$ 823,400.00	\$ 112,870.00	\$ 131,788.74	\$ 1,068,058.74	6,579	\$ 162.34
LONDON				\$ 574,539.00					
CLAY	22,780	40.2	6.8			\$ 282.50		678	
KNOX	31,976	38.9	5.5			\$ 6,088.25		499	
LAUREL	52,015	24.8	4.7			\$ 6,805.25		742	
LESLIE	13,558	35.6	5.7			\$ 250.00		259	
WHITLEY	36,130	33.0	5.8			\$ 2,283.50		882	
SUBTOTAL	156,459			\$ 574,539.00		\$ 15,709.50	\$ 574,539.00	3,060	\$ 187.76
LOUISVILLE*									
JEFFERSON	672,900	13.7	3.7	\$ 2,517,200.00	\$1,225,000.00	\$ 25,296.50	\$ 3,767,496.50	24,495	\$ 153.81
MADISONVILLE				\$ 288,208.00					
HOPKINS	46,155	17.2	5.7			\$ 6,053.35	\$ -	1185	
MCLEAN	9,897	19.2	6.7			\$ 895.00	\$ 895.00	147	
MUHLENBURG	31,968	20.7	8.4			\$ 4,037.50	\$ 4,037.50	456	
SUBTOTAL	88,020			\$ 288,208.00		\$ 10,985.85	\$ 288,208.00	1,788	\$ 161.19
MAYSVILLE*				\$ 95,244.00					
BRACKEN	8,478	21.4	3.9	\$ 4,540.00	\$ 750.00	\$ 1,425.00	\$ 6,715.00	140	
FLEMING	13,605	25.4	4.4	\$ 8,000.00	\$ 300.00	\$ 1,128.50	\$ 9,428.50	234	
MASON	16,825	20.3	2.9	\$ 15,800.00	\$ 2,625.00	\$ 1,065.00	\$ 19,490.00	745	
SUBTOTAL	38,908			\$ 123,584.00	\$ 3,675.00	\$ 3,618.50	\$ 127,259.00	1,119	\$ 113.73
MOREHEAD				\$ 485,266.00					
CARTER	27,106	26.8	12.8			\$ 1,350.00		800	
ELLIOTT	6,533	38.0	13.9			\$ 497.50		123	
MONTGOMERY	21,636	21.0	5.1			\$ 1,987.50		970	
MORGAN	13,660	38.8	7.7			\$ 1,159.00		241	
ROWAN	22,168	28.9	3.8			\$ 3,125.00		705	
SUBTOTAL	91,103			\$ 485,266.00		\$ 8,119.00	\$ 485,266.00	2,839	\$ 170.93
OWNESBORO				\$ 274,945.00					
DAVISS	91,179	15.4	5.1			\$ 17,230.00	\$ 17,230.00	2917	
SUBTOTAL	91,179			\$ 274,945.00		\$ 17,230.00	\$ 274,945.00	2,917	\$ 94.26

PADUCAH				\$ 641,107.00						
GRAVES	36,254	16.9	5.7			\$ 29,400.50		1316		
MCCRACKEN	64,407	15.8	3.8			\$ 23,435.00		3422		
SUBTOTAL	100,661			\$ 641,107.00		\$ 52,835.50	\$ 641,107.00	4,738	\$ 135.31	
PAINTSVILLE*				\$ 275,053.00						
JOHNSON	23,999	28.7	7.2			\$ 2,005.75	\$ 2,005.75	401		
LAWRENCE	15,800	36.0	10.7		\$ 5,000.00	\$ 1,092.50	\$ 6,092.50	216		
MAGOFFIN	14,036	42.5	13.3			\$ -	\$ -	143		
MARTIN	11,901	35.4	12.5			\$ 1,209.00	\$ 1,209.00	205		
SUBTOTAL	65,736			\$ 275,053.00	\$ 5,000.00	\$ 4,307.25	\$ 280,053.00	965	\$ 290.21	
PIKEVILLE				\$ 412,782.00						
FLOYD	43,266	31.2	7.6			\$ 1,439.34		1036		
PIKE	71,526	25.4	7.6			\$ 3,473.00		1222		
SUBTOTAL	114,792			\$ 412,782.00		\$ 4,912.34	\$ 412,782.00	2,258	\$ 182.81	
RICHMOND				\$ 441,767.00						
CLARK	32,457	17.7	3.2			\$ 4,158.50		683		
JACKSON	13,040	38.2	4.8			\$ 410.00		275		
MADISON	67,690	21.2	2.6			\$ 7,564.75		1303		
ROCKCASTLE	15,974	30.7	5.4			\$ 4,202.00		246		
SUBTOTAL	129,161			\$ 441,767.00		\$ 16,335.25	\$ 441,767.00	2,507	\$ 176.21	
SOMERSET				\$ 425,857.00						
MCCREARY	16,754	45.5	6.7			\$ 5,830.00		591		
PULASKI	57,110	22.7	4.8			\$ 5,297.25		687		
RUSSELL	16,182	25.6	11.8			\$ 1,987.50		404		
WAYNE	19,190	37.3	6.7			\$ -		393		
SUBTOTAL	109,236			\$ 425,857.00		\$ 13,114.75	\$ 425,857.00	2,075	\$ 205.23	
STANFORD				\$ 293,964.00						
GARRARD	14,333	18.1	2.7			\$ 16,297.50		315		
LINCOLN	22,540	27.2	4.0			\$ 10,267.50		280		
JESSAMINE	37,300	13.2	1.5			\$ 25,700.00	\$ 25,700.00	446		
SUBTOTAL	74,173			\$ 293,964.00		52,265	\$ 293,964.00	1,041	\$ 282.39	
STANTON				\$ 459,223.00						
BREATHITT	15,771	39.5	8.4			\$ 100.00		570		
ESTILL	15,506	29.0	4.7			\$ 100.00		347		
LEE	7,994	37.4	5.8			\$ -		157		

OWSLEY	5,375	52.1	5.3			\$ -		122	
POWELL	13,264	26.2	5.7			\$ 225.00		457	
WOLFE	7,507	44.3	5.1			\$ -		199	
SUBTOTAL	65,417			\$ 459,223.00		\$ 425.00	\$ 459,223.00	1,852	\$ 247.96
SUBTOTAL**	3,162,666			\$12,006,856.00	\$1,530,545.00	\$ 581,204.76	\$ 13,718,593.34	86,146	\$ 159.25
GRAND TOTAL**	3,960,825			\$12,951,505.01	\$1,642,618.92	\$1,000,001.80	\$ 15,594,125.73	95,347	\$ 163.55

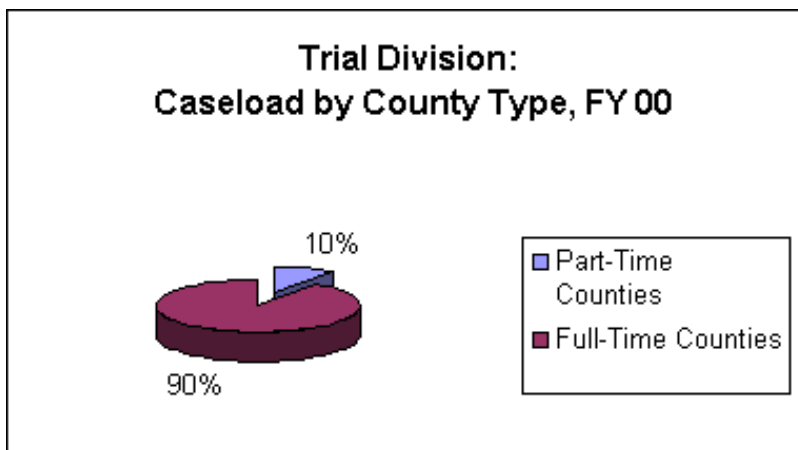
¹Source: U.S. Census Bureau, July 1, 1999, County Population Estimates.

²Source: Kentucky Commission on Poverty, *Families First* (Legislative Research Commission, Report No. 273). Last updated, December 31, 1997.

³Source: Kentucky Department for Employment Services, 1999.*Office received both agency budgeted funds (found to the right of the office name) and local allotment funds, due to status as a contract office, a mid-year takeover of the listed counties, or other causes.

***"Section II, Total \$" column, "Section II, Subtotal" row reflects DPA's financial practice of removing local recoupment dollars from full-time offices' total funds and cost per case -- excluding the contractually operated full-time offices in Catlettsburg, Lexington, and Louisville (total recoupment retained, \$175,328.59). The individual DPA offices are funded with other agency general fund and revenue accounts, and the distributed funds subsidize other related divisional costs (e.g., Capital Trial Unit, conflicts and individual contracts with the local bar, etc.). The "Section II, Grand Total" row incorporates all funds.

***Reflects aggregate Cost Per Case for each field office; individual counties are not broken out due to internal budgeting methods.



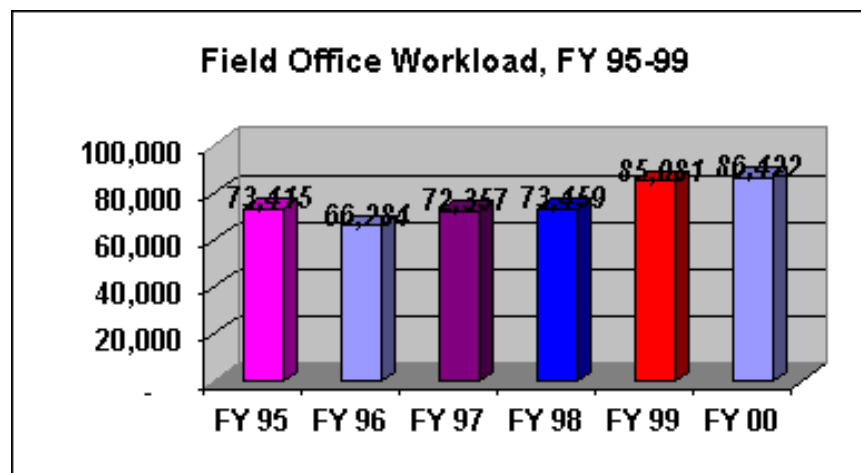
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FIELD OFFICE WORKLOAD, Fiscal Year 1995 Through Fiscal Year 2000

OFFICE	# ATTYs AUTHORIZED FY 00 (6/30/00)	FY 95 Cases	FY 96 Cases	% of Change	FY 97 Cases	% of Change	FY 98 Cases	% of Change	FY 98 AVG	FY 99 Cases	% of Change	FY 99 AVG cases/atty	FY 00 Cases	% of Change	FY 00 AVG cases/atty
Bell County	5	0	0	N/A	0	N/A	0	N/A		1,771	N/A	590.3	1605	-9%	321.0
Bowling Green ¹	4	0	0	N/A	0	N/A	0	N/A		0	N/A	N/A	3370	N/A	842.5
Cattlettsburg	2	713	733	3%	807	10%	1,474	83%		759	-49%	379.5	694	-9%	347.0
Columbia	5	0	0	N/A	0	N/A	0	N/A		1,866	N/A	373.2	2907	56%	581.4
Covington	9	40	1,742	4255%	2,972	71%	3,386	14%		3,680	9%	460.0	3121	-15%	346.8
Elizabethtown	8	0	0	N/A	0	N/A	0	N/A		2,175	N/A	362.5	4297	98%	537.1
Frankfort	3	576	415	-28%	524	26%	450	-14%		1,508	235%	502.7	1662	10%	554.0
Hazard	7	2,775	2,820	2%	2,491	-12%	3,061	23%		3,900	27%	780.0	3593	-8%	513.3
Henderson	5	375	331	-12%	749	126%	1,346	80%		1,854	38%	618.0	2662	44%	532.4
Hopkinsville	7	3,076	2,690	-13%	3,514	31%	3,565	1%		3,623	2%	517.6	3824	6%	546.3
LaGrange	3	869	997	15%	948	-5%	957	1%		998	4%	332.7	861	-14%	287.0
Lexington ²	17	10,703	9,168	-14%	10,119	10%	8,733	-14%		6,883	-21%	382.4	6746	-2%	396.8
London	7	2,174	2,549	17%	2,975	17%	3,221	8%		2,888	-10%	412.6	2686	-7%	383.7
Louisville ²	52	38,150	30,401	-20%	31,146	2%	30,106	-3%		31,390	4%	603.7	24495	-22%	471.1
Madisonville	5	602	151	-75%	1,351	795%	1,193	-12%		1,579	32%	526.3	1750	11%	350.0
Maysville	3	0	0	N/A	0	N/A	0	N/A		0	N/A	N/A	1118	N/A	372.7
Morehead	7	1,694	1,836	8%	1,593	-13%	2,746	72%		2,744	0%	457.3	2846	4%	406.6
Owensboro	4	0	0	N/A	0	N/A	0	N/A		3,504	N/A	1168.0	2902	-17%	725.5
Paducah	9	3,137	3,580	14%	4,023	12%	3,885	-3%		4,422	14%	491.3	4688	6%	520.9
Paintsville	3	0	0	N/A	0	N/A	0	N/A		641	N/A	213.7	964	50%	321.3
Pikeville	7	2,353	2,243	-5%	2,372	6%	2,657	12%		2,116	-20%	352.7	2147	1%	306.7
Richmond	8	1,884	2,052	9%	2,598	27%	2,291	-12%		2,492	9%	356.0	2672	7%	334.0
Somerset	5	1,878	1,997	6%	1,867	-7%	1,851	-1%		1,881	2%	376.2	2074	10%	414.8
Stanford	3	410	439	7%	411	-6%	384	-7%		596	55%	298.0	1011	70%	337.0
Stanton	6	2,006	2,140	7%	1,897	-11%	2,153	13%		1,811	-16%	301.8	1727	-5%	287.8

TOTAL	189	73,415	66,284	-10%	72,357	9%	73,459	2%	85,081	16%	475.3	86,422	2%	428.7
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¹. Although Bowling Green officially opened in FY 00, staff received over 300 FY99 cases 7/1/99. These cases were credited in the FY 99 Annual Caseload worked, but actually opened and worked in FY 00.



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DPA Trial Division Cases Reported Opened FY 00

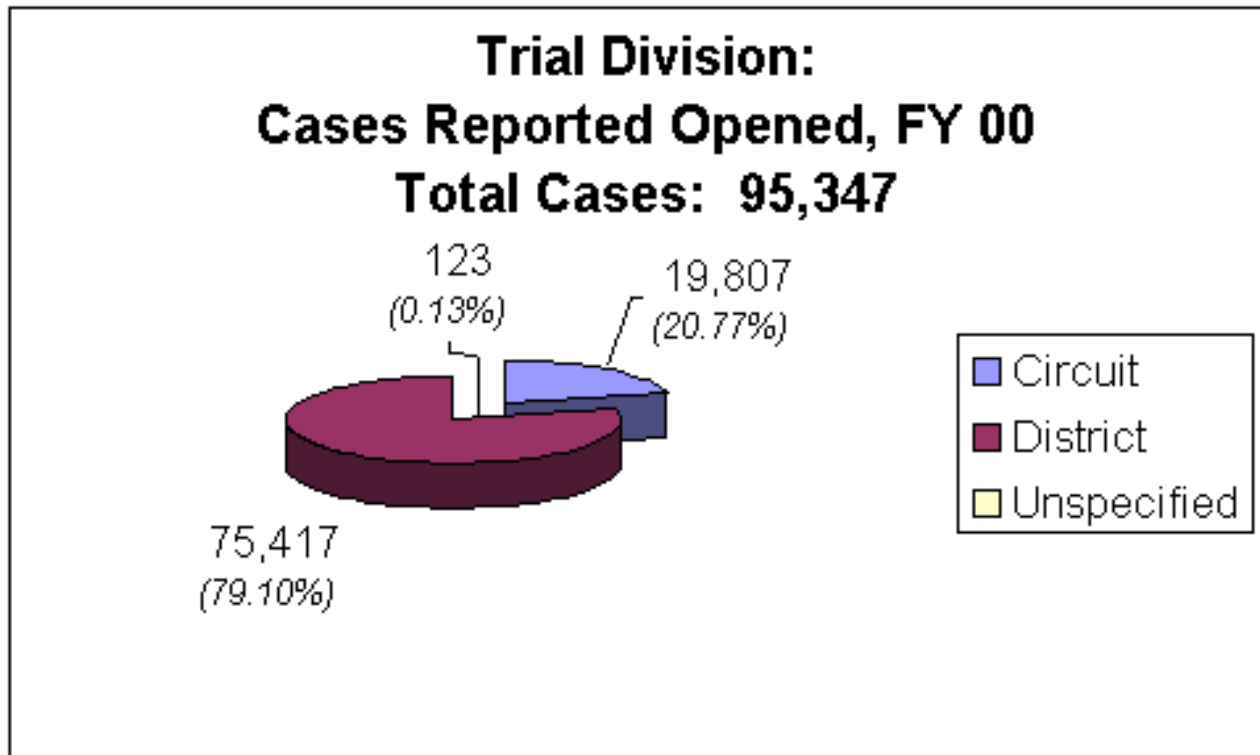
COUNTY	CIRCUIT		DISTRICT		UNSPECIFIED		TOTAL
ADAIR	183	59.03%	127	40.97%			310
ALLEN	99	40.24%	145	58.94%	2	0.81%	246
ANDERSON	24	17.27%	115	82.73%			139
BALLARD	43	40.19%	64	59.81%			107
BARREN	409	55.87%	321	43.85%	2	0.27%	732
BATH	2	0.51%	387	98.47%	4	1.02%	393
BELL	252	21.52%	919	78.48%			1171
BOONE	157	19.19%	656	80.20%	5	0.61%	818
BOURBON	24	9.30%	232	89.92%	2	0.78%	258
BOYD	162	23.34%	532	76.66%			694
BOYLE	7	11.86%	51	86.44%	1	1.69%	59
BRACKEN	34	24.29%	106	75.71%			140
BREATHITT	51	8.95%	519	91.05%			570
BRECKENRIDGE	63	75.90%	20	24.10%			83
BULLITT	102	16.94%	498	82.72%	2	0.33%	602
BUTLER	38	28.15%	97	71.85%			135
CALDWELL	253	63.41%	146	36.59%			399
CALLOWAY	141	38.42%	224	61.04%	2	0.54%	367
CAMPBELL	288	20.73%	1100	79.19%	1	0.07%	1389
CARLISLE	15	42.86%	20	57.14%			35
CARROLL	35	20.23%	123	71.10%	15	8.67%	173
CARTER	101	12.63%	699	87.38%			800
CASEY	103	63.98%	58	36.02%			161
CHRISTIAN	675	22.82%	2283	77.18%			2958
CLARK	92	13.47%	585	85.65%	6	0.88%	683
CLAY	77	11.36%	601	88.64%			678
CLINTON	70	16.43%	356	83.57%			426
CRITTENDEN	51	28.98%	125	71.02%			176
CUMBERLAND	23	24.73%	70	75.27%			93
DAVIESS	413	14.16%	2501	85.74%	3	0.10%	2917
EDMONSON	73	42.44%	99	57.56%			172
ELLIOTT	21	17.07%	102	82.93%			123
ESTILL	94	27.09%	252	72.62%	1	0.29%	347
FAYETTE	1924	29.44%	4655	70.56%			6579

FLEMING	36	<i>15.38%</i>	198	<i>84.62%</i>			840
FLOYD	185	<i>17.86%</i>	851	<i>82.14%</i>			234
FRANKLIN	182	<i>21.67%</i>	654	<i>77.86%</i>	4	<i>0.48%</i>	1036
FULTON	137	<i>42.02%</i>	189	<i>57.98%</i>			326
GALLATIN	8	<i>9.52%</i>	75	<i>89.29%</i>	1	<i>1.19%</i>	84
GARRARD	64	<i>20.32%</i>	247	<i>78.41%</i>	4	<i>1.27%</i>	315
GRANT	17	<i>16.83%</i>	78	<i>77.23%</i>	6	<i>5.94%</i>	101
GRAVES	173	<i>13.15%</i>	1143	<i>86.85%</i>			1316
GRAYSON	184	<i>39.07%</i>	285	<i>60.51%</i>	2	<i>0.42%</i>	471
GREEN	48	<i>21.62%</i>	174	<i>78.38%</i>			222
GREENUP	48	<i>36.09%</i>	84	<i>63.16%</i>	1	<i>0.75%</i>	133
HANCOCK	26	<i>18.71%</i>	113	<i>81.29%</i>			139
HARDIN	422	<i>15.25%</i>	2337	<i>84.43%</i>	9	<i>0.33%</i>	2768
HARLAN	261	<i>80.31%</i>	64	<i>19.69%</i>			325
HARRISON	48	<i>13.11%</i>	317	<i>86.61%</i>	1	<i>0.27%</i>	366
HART	68	<i>20.30%</i>	266	<i>79.40%</i>	1	<i>0.30%</i>	335
HENDERSON	287	<i>16.64%</i>	1438	<i>83.36%</i>			1725
HENRY	13	<i>8.84%</i>	134	<i>91.16%</i>			147
HICKMAN	33	<i>35.11%</i>	60	<i>63.83%</i>	1	<i>1.06%</i>	94
HOPKINS	286	<i>24.14%</i>	899	<i>75.86%</i>			1185
JACKSON	59	<i>21.45%</i>	216	<i>78.55%</i>			275
JEFFERSON	*3244	<i>13.24%</i>	21251	<i>87.76%</i>			24495
JESSAMINE	108	<i>24.22%</i>	333	<i>74.66%</i>	5	<i>1.12%</i>	446
JOHNSON	73	<i>18.20%</i>	327	<i>81.55%</i>	1	<i>0.25%</i>	401
KENTON	705	<i>22.61%</i>	2411	<i>77.33%</i>	2	<i>0.06%</i>	3118
KNOTT	50	<i>15.67%</i>	269	<i>84.33%</i>			319
KNOX	152	<i>30.46%</i>	347	<i>69.54%</i>			499
LARUE	40	<i>16.88%</i>	197	<i>83.12%</i>			237
LAUREL	242	<i>32.61%</i>	500	<i>67.39%</i>			742
LAWRENCE	37	<i>17.13%</i>	177	<i>81.94%</i>	2	<i>0.93%</i>	216
LEE	24	<i>15.29%</i>	133	<i>84.71%</i>			157
LESLIE	51	<i>19.69%</i>	208	<i>80.31%</i>			259
LETCHER	99	<i>12.15%</i>	716	<i>87.85%</i>			815
LEWIS	78	<i>31.97%</i>	164	<i>67.21%</i>	2	<i>0.82%</i>	244
LINCOLN	42	<i>15.00%</i>	237	<i>84.64%</i>	1	<i>0.36%</i>	280
LIVINGSTON	37	<i>20.22%</i>	146	<i>79.78%</i>			183
LOGAN	35	<i>49.30%</i>	35	<i>49.30%</i>	1	<i>1.41%</i>	71
LYON	58	<i>56.86%</i>	44	<i>43.14%</i>			102
MADISON	117	<i>8.98%</i>	1183	<i>90.79%</i>	3	<i>0.23%</i>	1303

MAGOFFIN	44	<i>30.77%</i>	99	<i>69.23%</i>			143
MARION	158	<i>28.06%</i>	405	<i>71.94%</i>			563
MARSHALL	157	<i>39.25%</i>	240	<i>60.00%</i>	3	<i>0.75%</i>	400
MARTIN	38	<i>18.54%</i>	166	<i>80.98%</i>	1	<i>0.49%</i>	205
MASON	150	<i>20.13%</i>	594	<i>79.73%</i>	1	<i>0.13%</i>	745
MCCRACKEN	438	<i>12.80%</i>	2982	<i>87.14%</i>	2	<i>0.06%</i>	3422
MCCREARY	80	<i>13.54%</i>	511	<i>86.46%</i>			591
MCLEAN	43	<i>29.25%</i>	104	<i>70.75%</i>			147
MEADE	68	<i>42.24%</i>	93	<i>57.76%</i>			161
MENIFEE	3	<i>1.49%</i>	198	<i>98.51%</i>			201
MERCER	26	<i>33.33%</i>	52	<i>66.67%</i>			78
METCALFE	64	<i>44.14%</i>	81	<i>55.86%</i>			145
MONROE	93	<i>51.67%</i>	87	<i>48.33%</i>			180
MONTGOMERY	174	<i>17.94%</i>	796	<i>82.06%</i>			970
MORGAN	22	<i>9.13%</i>	219	<i>90.87%</i>			241
MUHLENBERG	219	<i>48.03%</i>	237	<i>51.97%</i>			456
NELSON	81	<i>18.54%</i>	356	<i>81.46%</i>			437
NICHOLAS	16	<i>11.59%</i>	122	<i>88.41%</i>			138
OHIO	126	<i>50.20%</i>	125	<i>49.80%</i>			251
OLDHAM	57	<i>26.89%</i>	155	<i>73.11%</i>			212
OWEN	11	<i>26.19%</i>	29	<i>69.05%</i>	2	<i>4.76%</i>	42
OWSLEY	26	<i>21.31%</i>	96	<i>78.69%</i>			122
PENDLETON	15	<i>11.11%</i>	120	<i>88.89%</i>			135
PERRY2	30	<i>11.13%</i>	1837	<i>88.87%</i>			2067
PIKE	289	<i>23.65%</i>	933	<i>76.35%</i>			1222
POWELL	76	<i>16.63%</i>	381	<i>83.37%</i>			457
PULASKI	184	<i>26.78%</i>	503	<i>73.22%</i>			687
ROBERTSON	3	<i>13.64%</i>	19	<i>86.36%</i>			22
ROCKCASTLE	91	<i>36.99%</i>	152	<i>61.79%</i>	3	<i>1.22%</i>	246
ROWAN	93	<i>13.19%</i>	612	<i>86.81%</i>			705
RUSSELL	82	<i>20.30%</i>	322	<i>79.70%</i>			404
SCOTT	85	<i>12.48%</i>	593	<i>87.08%</i>	3	<i>0.44%</i>	681
SHELBY	98	<i>24.81%</i>	297	<i>75.19%</i>			395
SIMPSON	119	<i>76.28%</i>	37	<i>23.72%</i>			156
SPENCER	22	<i>30.56%</i>	50	<i>69.44%</i>			72
TAYLOR	206	<i>29.34%</i>	494	<i>70.37%</i>	2	<i>0.28%</i>	702
TODD	25	<i>43.86%</i>	32	<i>56.14%</i>			57
TRIGG	41	<i>33.06%</i>	83	<i>66.94%</i>			124
TRIMBLE	8	<i>7.77%</i>	95	<i>92.23%</i>			103

UNIDENTIFIED	8	25.81%	21	67.74%	2	6.45%	31
UNION	81	19.66%	331	80.34%			412
WARREN	1607	47.93%	1738	51.83%	8	0.24%	3353
WASHINGTON	118	45.56%	141	54.44%			259
WAYNE	72	18.32%	321	81.68%			393
WEBSTER	36	12.37%	255	87.63%			291
WHITLEY	165	18.71%	717	81.29%			882
WOLFE	35	17.59%	163	81.91%	1	0.50%	199
WOODFORD	48	25.95%	135	72.97%	2	1.08%	185

***Total cases represents a significant reduction from FY 1999 figures due partly to revised case counting/reporting methods.**



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DPA Trial Division Capital, Juvenile, and Involuntary Commitment Cases Reported Opened FY 2000

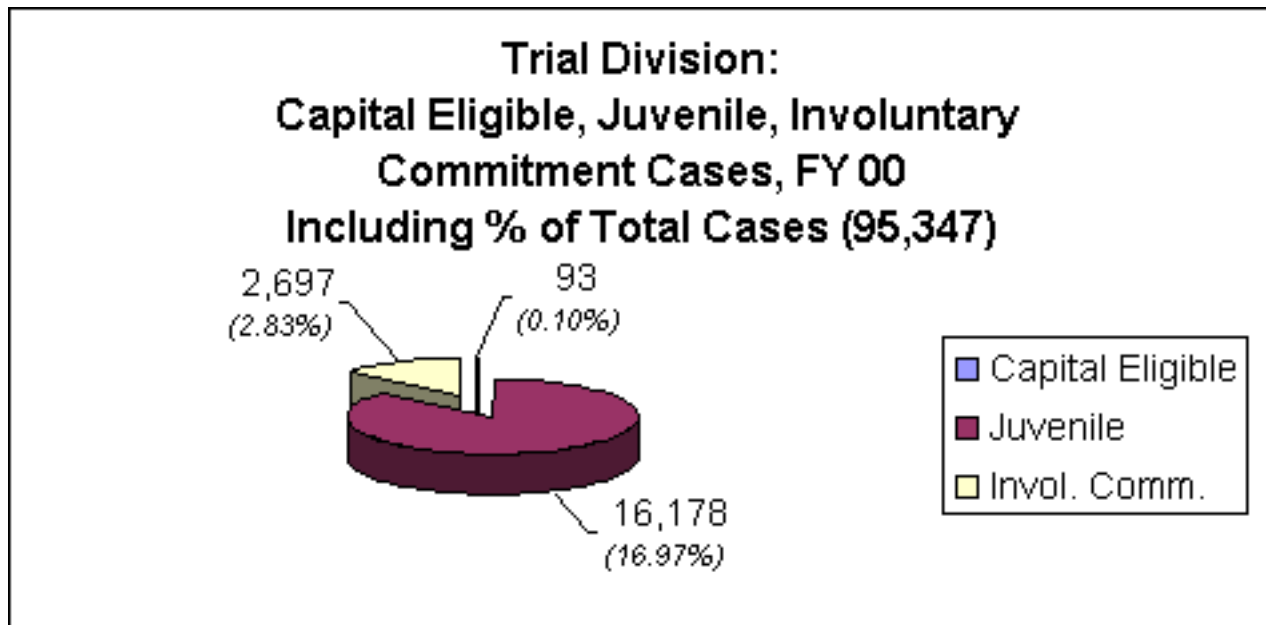
<i>COUNTY</i>	<i>CAPITAL ELIGIBLE¹</i>	<i>% of Total County Cases</i>	<i>JUVENILE</i>	<i>% of Total County Cases</i>	<i>INVOLUNTARY COMMITMENT</i>	<i>% of Total County Cases</i>	<i>TOTAL COUNTY CASES</i>
ADAIR		0.00%	11	3.55%		0.00%	310
ALLEN		0.00%	68	27.64%		0.00%	246
ANDERSON		0.00%	28	20.14%		0.00%	139
BALLARD		0.00%	2	1.87%		0.00%	107
BARREN	2	0.27%	27	3.69%		0.00%	732
BATH		0.00%	3	0.76%		0.00%	393
BELL	1	0.09%	72	6.15%		0.00%	1171
BOONE		0.00%	148	18.09%	2	0.24%	818
BOURBON		0.00%	15	5.81%		0.00%	258
BOYD	2	0.29%	71	10.23%		0.00%	694
BOYLE		0.00%	12	20.34%		0.00%	59
BRACKEN		0.00%	19	13.57%		0.00%	140
BREATHITT		0.00%	35	6.14%		0.00%	570
BRECKENRIDGE		0.00%	2	2.41%		0.00%	83
BULLITT	4	0.66%	93	15.45%		0.00%	602
BUTLER		0.00%		0.00%		0.00%	135
CALDWELL	1	0.25%	24	6.02%		0.00%	399
CALLOWAY	1	0.27%	37	10.08%		0.00%	367
CAMPBELL		0.00%	633	45.57%		0.00%	1389
CARLISLE		0.00%		0.00%		0.00%	35
CARROLL		0.00%	12	6.94%		0.00%	173
CARTER		0.00%	72	9.00%		0.00%	800
CASEY	1	0.62%	13	8.07%		0.00%	161
CHRISTIAN	1	0.03%	224	7.57%	451	15.25%	2958
CLARK		0.00%	187	27.38%		0.00%	683
CLAY		0.00%	46	6.78%		0.00%	678
CLINTON	2	0.47%	18	4.23%		0.00%	426
CRITTENDEN		0.00%	13	7.39%		0.00%	176
CUMBERLAND		0.00%	17	18.28%		0.00%	93
DAVISS		0.00%	399	13.68%	13	0.45%	2917
EDMONSON		0.00%	10	5.81%		0.00%	172
ELLIOTT		0.00%	2	1.63%		0.00%	123
ESTILL		0.00%	36	10.37%		0.00%	347

FAYETTE	10	<i>0.15%</i>	1747	<i>26.55%</i>	462	<i>7.02%</i>	6579
FLEMING	1	<i>0.43%</i>	19	<i>8.12%</i>		<i>0.00%</i>	234
FLOYD		<i>0.00%</i>	117	<i>11.29%</i>	1	<i>0.10%</i>	1036
FRANKLIN		<i>0.00%</i>	182	<i>21.67%</i>		<i>0.00%</i>	840
FULTON		<i>0.00%</i>	28	<i>8.59%</i>		<i>0.00%</i>	326
GALLATIN		<i>0.00%</i>	10	<i>11.90%</i>		<i>0.00%</i>	84
GARRARD	1	<i>0.32%</i>	46	<i>14.60%</i>		<i>0.00%</i>	315
GRANT		<i>0.00%</i>	10	<i>9.90%</i>		<i>0.00%</i>	101
GRAVES	1	<i>0.08%</i>	124	<i>9.42%</i>		<i>0.00%</i>	1316
GRAYSON		<i>0.00%</i>	90	<i>19.11%</i>		<i>0.00%</i>	471
GREEN		<i>0.00%</i>	47	<i>21.17%</i>		<i>0.00%</i>	222
GREENUP		<i>0.00%</i>	19	<i>14.29%</i>		<i>0.00%</i>	133
HANCOCK		<i>0.00%</i>	4	<i>2.88%</i>		<i>0.00%</i>	139
HARDIN		<i>0.00%</i>	271	<i>9.79%</i>	1	<i>0.04%</i>	2768
HARLAN		<i>0.00%</i>	32	<i>9.85%</i>	1	<i>0.31%</i>	325
HARRISON		<i>0.00%</i>	34	<i>9.29%</i>		<i>0.00%</i>	366
HART	1	<i>0.30%</i>	30	<i>8.96%</i>		<i>0.00%</i>	335
HENDERSON	3	<i>0.17%</i>	397	<i>23.01%</i>		<i>0.00%</i>	1725
HENRY		<i>0.00%</i>	26	<i>17.69%</i>		<i>0.00%</i>	147
HICKMAN		<i>0.00%</i>	7	<i>7.45%</i>		<i>0.00%</i>	94
HOPKINS	1	<i>0.08%</i>	79	<i>6.67%</i>		<i>0.00%</i>	1185
JACKSON	8	<i>2.91%</i>	13	<i>4.73%</i>		<i>0.00%</i>	275
JEFFERSON	10	<i>0.04%</i>	4935	<i>20.15%</i>	1106	<i>4.52%</i>	24495
JESSAMINE		<i>0.00%</i>	61	<i>13.68%</i>		<i>0.00%</i>	446
JOHNSON	1	<i>0.25%</i>	43	<i>10.72%</i>		<i>0.00%</i>	401
KENTON	1	<i>0.03%</i>	1020	<i>32.71%</i>	140	<i>4.49%</i>	3118
KNOTT		<i>0.00%</i>	134	<i>42.01%</i>		<i>0.00%</i>	319
KNOX	1	<i>0.20%</i>	128	<i>25.65%</i>		<i>0.00%</i>	499
LARUE		<i>0.00%</i>	60	<i>25.32%</i>		<i>0.00%</i>	237
LAUREL	2	<i>0.27%</i>	158	<i>21.29%</i>		<i>0.00%</i>	742
LAWRENCE	1	<i>0.46%</i>	45	<i>20.83%</i>		<i>0.00%</i>	216
LEE	1	<i>0.64%</i>	5	<i>3.18%</i>		<i>0.00%</i>	157
LESLIE	3	<i>1.16%</i>	9	<i>3.47%</i>		<i>0.00%</i>	259
LETCHER	1	<i>0.12%</i>	191	<i>23.44%</i>		<i>0.00%</i>	815
LEWIS	2	<i>0.82%</i>	21	<i>8.61%</i>		<i>0.00%</i>	244
LINCOLN		<i>0.00%</i>	48	<i>17.14%</i>		<i>0.00%</i>	280
LIVINGSTON		<i>0.00%</i>	26	<i>14.21%</i>		<i>0.00%</i>	183
LOGAN		<i>0.00%</i>	14	<i>19.72%</i>		<i>0.00%</i>	71
LYON	1	<i>0.98%</i>	16	<i>15.69%</i>		<i>0.00%</i>	102

MADISON	6	0.46%	528	40.52%		0.00%	1303
MAGOFFIN	3	2.10%	76	53.15%	3	2.10%	143
MARION		0.00%	27	4.80%		0.00%	563
MARSHALL		0.00%	146	36.50%		0.00%	400
MARTIN		0.00%	13	6.34%		0.00%	205
MASON		0.00%	99	13.29%		0.00%	745
MCCRACKEN		0.00%	22	0.64%		0.00%	3422
MCCREARY		0.00%	13	2.20%		0.00%	591
MCLEAN		0.00%	41	27.89%		0.00%	147
MEADE		0.00%		0.00%		0.00%	161
MENIFEE		0.00%	24	11.94%		0.00%	201
MERCER	2	2.56%	19	24.36%		0.00%	78
METCALFE		0.00%	2	1.38%		0.00%	145
MONROE	1	0.56%	10	5.56%		0.00%	180
MONTGOMERY		0.00%	163	16.80%		0.00%	970
MORGAN	1	0.41%	33	13.69%		0.00%	241
MUHLENBERG		0.00%	75	16.45%		0.00%	456
NELSON		0.00%	76	17.39%		0.00%	437
NICHOLAS		0.00%	9	6.52%	1	0.72%	138
OHIO		0.00%		0.00%		0.00%	251
OLDHAM		0.00%	72	33.96%		0.00%	212
OWEN		0.00%	4	9.52%		0.00%	42
OWSLEY		0.00%	13	10.66%		0.00%	122
PENDLETON		0.00%	26	19.26%	1	0.74%	135
PERRY		0.00%	262	12.68%	510	24.67%	2067
PIKE	4	0.33%	225	18.41%	2	0.16%	1222
POWELL		0.00%	33	7.22%		0.00%	457
PULASKI		0.00%	73	10.63%		0.00%	687
ROBERTSON		0.00%	5	22.73%		0.00%	22
ROCKCASTLE		0.00%	6	2.44%		0.00%	246
ROWAN		0.00%	29	4.11%		0.00%	705
RUSSELL		0.00%	53	13.12%		0.00%	404
SCOTT		0.00%	85	12.48%		0.00%	681
SHELBY		0.00%	66	16.71%		0.00%	395
SIMPSON		0.00%	20	12.82%		0.00%	156
SPENCER		0.00%	24	33.33%		0.00%	72
TAYLOR		0.00%	176	25.07%		0.00%	702
TODD		0.00%	2	3.51%		0.00%	57
TRIGG		0.00%	18	14.52%		0.00%	124

TRIMBLE	1	<i>0.97%</i>	35	<i>33.98%</i>		<i>0.00%</i>	103
UNIDENTIFIED		<i>0.00%</i>	3	<i>9.68%</i>		<i>0.00%</i>	31
UNION		<i>0.00%</i>	41	<i>9.95%</i>		<i>0.00%</i>	412
WARREN	8	<i>0.24%</i>	766	<i>22.85%</i>	1	<i>0.03%</i>	3353
WASHINGTON		<i>0.00%</i>	26	<i>10.04%</i>		<i>0.00%</i>	259
WAYNE		<i>0.00%</i>	27	<i>6.87%</i>		<i>0.00%</i>	393
WEBSTER		<i>0.00%</i>	25	<i>8.59%</i>		<i>0.00%</i>	291
WHITLEY	2	<i>0.23%</i>	66	<i>7.48%</i>	2	<i>0.23%</i>	882
WOLFE		<i>0.00%</i>	9	<i>4.52%</i>		<i>0.00%</i>	199
WOODFORD		<i>0.00%</i>	17	<i>9.19%</i>		<i>0.00%</i>	185
Totals	93	<i>0.10%</i>	16178	<i>16.97%</i>	2697	<i>2.83%</i>	95347

1. Due to the extensive resources required to defend a client charged with an offense(s) eligible for capital punishment, DPA defines cases as "capital eligible" if the client's alleged offense(s) is statutorily eligible for capital punishment, and a statutory aggravator is present in the facts of the case.



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Post-Trial Division

Appellate Branch

Fiscal Year 2000

Branch Appeals Cases

	# Received*	# Resolved In-House Without Assignment to An Attorney	# Assigned In- House	# Assigned to Of- Counsel Attorneys
ALL CASE TYPES	656	150	94	209

*Number of cases received does not equal number of cases assigned because of: cases rejected without representation or other resources devoted; cases assigned to other branches (see individual reports for detail); and/or the time lag between receipt and actual assignment to an attorney (this delay is due to the time required for DPA to receive the complete record from the Appellate Court.)



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Post-Trial Division

Capital Appeals Branch

Fiscal Year 2000

Capital/LWOP Cases Assigned		
	Q1	3
	Q2	1
	Q3	2
	Q4	0
*	YTD	6

Capital Cases Reassigned		
	Q1	0
	Q2	3
	Q3	0
	Q4	0
	YTD	3

* 1 of the 6 was an LWOP appeal.

Briefs/Arguments/Hearings in Non-Capital Cases					
	Q1	Q2	Q3	Q4	YTD
Briefs	3	1	0	0	4
Reply	7	5	1	0	13
Rehearing	0	2	1	0	3
MDR	1	0	0	0	1
Argument	1	1	0	0	2
Certiorari	1	0	0	0	1
Hearings	0	0	0	0	0

Briefs/Arguments/Hearings in Capital Cases					
	Q1	Q2	Q3	Q4	YTD
Briefs	0	3	3	2	8
Reply	0	2	2	0	4
Rehearing	0	0	0	1	1
MDR	0	0	0	0	0
Argument	1	1	2	2	6
Certiorari	0	0	0	0	0
Hearings	3	2	5	0	10



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Post-Trial Division

Capital Post-Conviction Branch

Fiscal Year 2000

	Lead Attorney Type														
ACTIONS	CPB Counsel					Other DPA Counsel					Contract Counsel				
	Q1	Q2	Q3	Q4	YTD	Q1	Q2	Q3	Q4	YTD	Q1	Q2	Q3	Q4	YTD
10.02	0	0	1	0	1	0	0	0	0	0	0	0	0	0	0
10.02 Evidentiary Hearing	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
11.42	0	0	2	0	2	0	0	0	0	0	0	0	0	0	0
11.42 Evidentiary Hearing	0	0	0	0	0	0	0	0	0	0	2	0	0	0	2
59	1	0	0	1	2	0	0	0	0	0	0	0	1	0	1
60.02	0	0	2	0	2	0	0	0	0	0	0	0	0	0	0
60.02 Evidentiary Hearing	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Recusal Litigation	1	0	0	0	1	0	1	0	0	1	0	0	0	0	0
Discovery Litigation	0	0	2	0	2	0	0	0	0	0	0	0	0	0	0
Expert Litigation	0	0	0	0	0	0	0	0	0	0	0	0	1	0	1
Ex Parte Litigation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
App. Ineff. Assist. Lit. (not 11.42)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Open Records/FOIA Litigation	0	0	1	0	1	0	0	0	0	0	0	0	0	0	0
State Habeas	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
State Habeas Evidentiary Hearing	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Post-Conviction Appeal	1	1	0	0	2	0	1	0	0	1	0	0	0	0	0
Petition for Rehearing	0	0	0	0	0	0	0	1	0	1	0	0	3	0	3
Cert from Post-Conviction Appeal	0	0	0	0	0	0	1	0	0	1	1	1	0	0	2
Federal Habeas (including 848)	1	0	0	0	1	0	0	0	2	2	1	1	0	1	3
Federal Habeas Evidentiary Hearing	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Federal Habeas Appeal	0	0	0	1	1	0	0	0	0	0	0	0	0	0	0
Cert from Federal Habeas Appeal	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Clemency	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Stay Litigation (Trial Level)	0	0	1	0	1	0	0	0	0	0	0	0	0	0	0
Stay Litigation (Appellate Level)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Stay Litigation (Federal Level)	1	0	0	0	1	0	0	0	2	2	1	1	0	1	3
															0
TOTALS	5	1	8	2	16	0	3	1	4	8	5	3	5	2	15

Client Code Number	Lead Attorney			Other Attorney(s)			Total Actions					Action(s)
	CPB	DPA	CNT	CPB	DPA	CNT	Q1	Q2	Q3	Q4	YTD	
PCB-1B-X	0	0	1	0	0	1	0	0	1	0	1	KSCCt Pra;s Q1: Petition for Rehearing
PCB-2B-Z	1	0	0	0	1	0	2	0	2	0	0	Habeas; Stay(fed); Disc.; Open Record
PCB-3B-R	1	0	0	0	0	1	1	0	2	1	4	11.42 brief; 10.02; 60.02; 59
PCB-4B-T	1	0	0	1	0	0	1	0	0	0	1	Recusal Motion
PCB-1E-H	0	1	0	1	0	0	0	2	0	0	2	11.42 brief; Recuse Ags
PCB-1F-H	0	1	0	0	0	1	0	0	1	0	1	Petition for Rehearing
PCB-1G-W	0	1	0	0	1	0	0	0	0	0	0	6th Cir. Orals Q2
PCB-1H-P	0	0	1	0	0	1	0	0	1	0	1	Petition for Rehearing
PCB-2H-W	0	0	1	0	0	1	0	0	0	0	0	
PCB-3H-N	1	0	0	0	0	1	0	1	0	0	1	11.42 Brief
PCB-1M-1	0	1	0	0	0	1	0	0	0	0	0	
PCB-2M-D	1	0	0	0	0	1	0	0	3	0	3	11.42 filed; 60.02; Disc.
PCB-3M-C	1	0	0	1	0	0	0	0	2	0	2	11.42 filed; Stay
PCB-4M-N	0	0	1	0	0	1	1	2	0	0	3	Cert off p-c; Habeas; Stay filed
PCB-1S-Q	0	0	1	0	0	1	2	0	0	0	2	Habeas filed; Stay (fed) filed
PCB-2S-E	1	0	0	1	0	0	0	0	0	0	0	
PCB-3S-J	0	1	0	0	0	0	0	0	0	0	0	
PCB-4S-R	0	1	0	0	0	1	0	0	0	0	0	6th Cir. Orals Q2
PCB-5S-S	0	1	0	0	0	1	0	1	0	2	3	Cert off p-c; Habeas; Stay filed
PCB-6S-O	0	1	0	0	0	0	0	0	0	2	2	Habeas; Stay (fed) filed
PCB-7S-L	1	0	0	0	0	1	1	0	0	1	2	59 filed; fed Habeas appeal
PCB-1T-U	0	0	1	0	0	1	1	0	1	0	2	11.42 evid. Hearing; Expert litigation
PCB-2T-G	0	1	0	0	1	0	0	0	0	0	0	
PCB-1W-Q	0	0	1	1	0	0	1	0	1	0	2	11.42 evidentiary hearing; 59
PCB-PCB-2W-M	0	0	1	0	0	1	0	1	0	2	3	Cert off p-c; Habeas; Stay
TOTALS	8	10	8	5	4	15	10	7	14	8	39	



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Post-Trial Division

Juvenile Post-Dispositional Branch

Fiscal Year 2000

Issues Opened

Facility	Fact	Duration	Conditions	Total
Baptist Youth Ranch	1	0	0	1
Bluegrass Assessment Center	1	0	0	1
Boyd County - Necco	1	0	0	1
Boyle County Detention	3	0	0	3
Breathitt County Detention	10	4	2	16
Campbell County Detention	1	0	0	1
Cardinal Treatment Center	23	12	22	57
Central Kentucky YDC	23	25	30	78
Daviess County Detention	1	0	0	1
Franklin County Detention	4	0	0	4
Green River YDC	28	32	30	90
Hardin County Detention	10	0	0	10
Home of the Innocents	1	0	0	1
Jefferson County Youth Center	1	0	1	2
Johnson Breckinridge YDC	1	0	0	1
Kentucky Youth Academy	1	0	0	1
Lake Cumberland YDC	33	39	12	84
Lexington Group Home	1	0	0	1
Lincoln Village YDC	66	30	15	111
Maryhurst Home	1	0	0	1
Maryhurst	1	0	0	1
Mayfield Boys' YDC	49	15	28	92
Morehead YDC	32	18	14	64
Northern Kentucky YDC	29	43	26	98
Owensboro Treatment Center	21	8	5	34
Ramey-Estepp	4	0	0	4
Rice Audubon YDC	35	39	35	109
Sewell Center	1	0	0	1
Spring Meadows	2	0	0	2
Woodsbend YDC	43	23	40	106

Appellate Cases Assigned

Type of Case	Circuit Court	Court of Appeals	Supreme Court	Total
Original Action	0	3	0	3
Public Offender Appeal	17	2	0	19
Youthful Offender Appeal	0	9	4	13
Adult Appeal	0	1	1	2
TOTALS	17	15	5	37

JAIBG Grant Critical Response to Denial to Counsel Program*

Detention Center Orientations	10
Estimated Orientation Participants	102
Individual Client Interviews	31
TOTAL CLIENTS REPRESENTED	11

*Data for 2 quarters only; formal program services began 1/1/00.

TOTALS	428	288	260	976
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Total Clients Served by Juvenile Post-Dispositional Branch 1024
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Post-Trial Division Post-Conviction Branch Fiscal Year 1999

Institutional Cases Closed

Post-Conv. Office	CONVICTION	PAROLE	INSTITUTIONAL	DETAINER	CREDIT	CIVIL	SENTENCE	PROBATION	APPEAL	OTHER	TOTAL
Frankfort	51	12	32	26	32	6	31	18	27	50	285
KSR	37	11	3	15	8	1	6	12	14	32	139
KSP	30	11	1	7	6	1	5	2	3	6	72
TOTALS	118	34	36	48	46	8	42	32	44	88	496

Legal Actions Pursued

RCR 11.42's FILED	28
MOTIONS IN PURSUIT OF 11.42 LITIGATION FILED*	178
11.42 CASES REVIEWED W/FINDINGS OF NO MERIT	9
EVIDENTIARY HEARINGS ON 11.42 CASES HELD	19
60.02'S FILED	2
STATE HABEAS FILED**	7
FEDERAL HABEAS FILED	6
KY SUPREME COURT BRIEFS FILED	12
COURT OF APPEALS BRIEFS FILED	21
PETITIONS FOR CERTIORARI FILED	2
PETITIONS FOR REHEARING FILED	3
31.110 REVIEWS	73
COURT APPOINTMENTS (RCR 11.42 & CR 60.02)	98
TOTALS	458

*Includes one (1) motion filed in pursuit of relief on a Petition of Declaration of Rights and one (1) Reply to Commonwealth's Response.

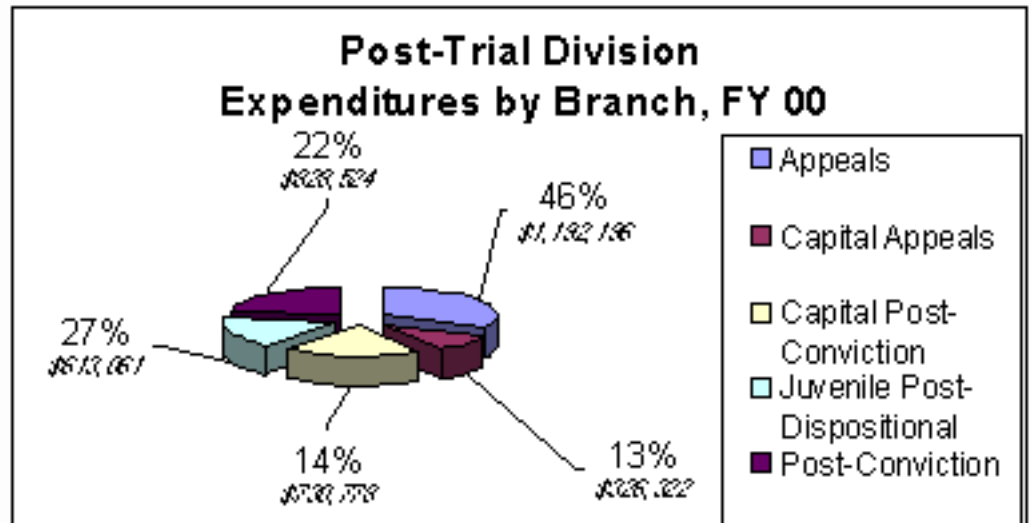
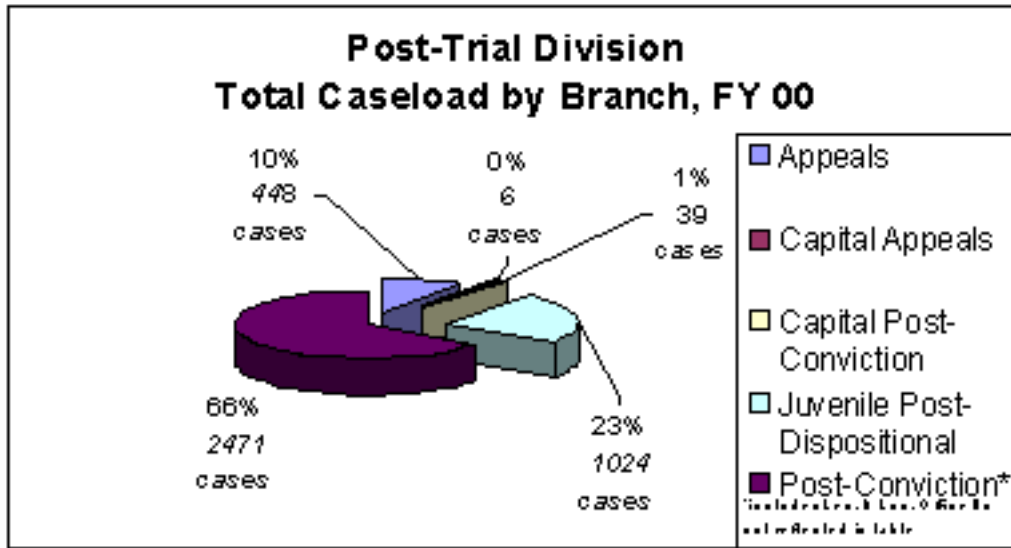
**Filed two (2) petitions for Declaration of Rights.

TOTAL CLIENTS REPRESENTED BY BRANCH:	954
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Post-Trial Division Branches' Data Comparisons



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HEADLINES:



Justice Jeopardized

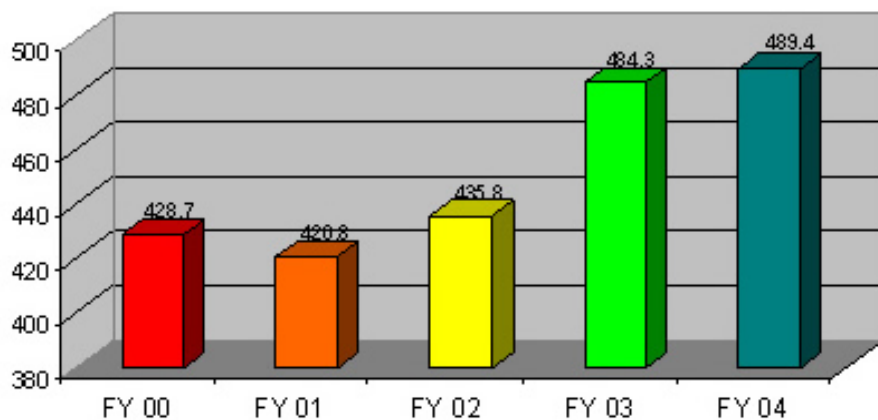
Wednesday December 22, 2004

DPA Launches Justice Jeopardized Campaign to reduce caseloads of public defenders in Kentucky.

Forty years ago, in the landmark case of Gideon v. Wainwright, the United States Supreme Court declared "any person haled into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him." As the justices said, "This seems an obvious truth." Yet decades later has the promise of Gideon been fulfilled in Kentucky?

FULL REPORT

Cases per DPA Attorney



Wednesday December 22, 2004

Most recent data demonstrates that the quality of justice being provided by Kentucky's public defenders is compromised by the continued significant increase in caseload.

[Graphical Findings of 2004 Caseload Report](#)

DPA represents over 100,000 citizens each year in Kentucky's trial and appellate courts. The staff of the Kentucky's statewide defender program protects what we value most - our liberty and our life. Every day in KY's 120 counties our defenders, supported by our staff of legal secretaries, investigators, paralegals, mitigation specialists, social workers and administrators, stand up for citizens who are accused by the state of having committed a crime. Defenders insure the criminal justice process is fair, the result reached by jurors and judges is just, and that individual liberties are protected. Enjoy learning about the many faces of justice our Department presents to the people of KY. It is a privilege to represent our clients. We do so on behalf of the people of Kentucky.

About Us

General Counsel is Karen Quinn. **Post Trial Division Director** is [Rebecca Diloreto](#). **Director of the Administrative Division, Law Operations Division Director** is [Alfred G. Adams](#). [Jeff Sherr](#) heads up DPA's **Education & Strategic Planning Branch**. The **Louisville Public Defender Office** is led by Dan Goyette. The **Lexington Legal Aid Office** is led by Joe Barbieri. [Maureen Fitzgerald](#) is the **Protection & Advocacy Division Director**. DPA's governing statute is [KRS Chapter 31](#). DPA's [mission](#), [core values](#), and [long term goals](#) provide clear direction for DPA. DPA provides significant [public value](#). DPA's [Legislative Update](#) covers criminal justice legislative issues. In June 2002 the [AOC/DPA Workgroup issued special Report on Eligibility & Pretrial Release](#). The ABA Juvenile Justice Center with the Children's Law Center has released "Advancing Justice: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings." It is at: <http://www.abanet.org/crimjust/juvjus/kentuckyhome.htm> The ABA adopted The Ten Principles of a public Defense Delivery System February 2002, which constitute the fundamental criteria to be met for a public defense delivery system to deliver effective and efficient, high quality,

ethical, conflict-free representation to accused persons who cannot afford to hire an attorney.
<http://www.abanet.org/legalservices/downloads/sclaid/10principles.pdf>

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Updated: September 21, 2004

Beyond the Browser Upgrade Campaign

Early 2001 was a difficult time for web developers. Although browsers that supported common web standards were in good supply there were a great number of browsers in active use that didn't fall into this category.

It is now the Spring of 2003 and the web has a much different complexion. Many, many computers now have browsers with acceptable support for web standards. Those computers that do not by now, may never. With this in mind we at the Web Standards project feel its time to retire the Browser Upgrade Campaign (BUC).

What was the BUC?

The BUC was created in order to give site builders a means for educating their visitors as to the existence of web standards and encourage those visitors to upgrade to browsers that supported standards such as HTML, CSS and a standard DOM.

What were its goals?

The campaign's primary goal was to help educate individual web users as to the availability of browsers that did a competent job at supporting common web standards and encourage them to upgrade.

Beyond that, the methods used provided a few options for web builders who wanted to start using existing web standards, but who also feared the impact that it might have on the significant portion of their audience due to poor standards support in the popular browsers.

How did it work?

This initiative promoted two methods of calling out older browsers.

In cases where lack of standards support would merely result in an awkward or loss of flashy appearance, site authors were encouraged to embed a short message in each page explaining that things would look and work better in a browser that supported standards.

In more extreme cases where this lack of support would result in the inability to operate the site, builders were encouraged to forward visitors to a page (hosted on webstandards.org) that discussed why they were not able to access the particular site.

So it's over, huh?

The complexion the web of has changed — for the better. The percentage of standards supporting browsers in use has increased tremendously. The percentage of non-standards supporting browsers is low and doing nothing but decreasing. Those older browsers still in use are largely found in institutions where the choice of which browser to use is out of the control of the person using the computer. There are very few reasons to continue with the same course of action.

Did the BUC meet its goals?

It should be clear by the tone of this page so far that the campaign was a success. The techniques promoted for the campaign were deployed on thousands of web sites reaching hundreds of thousands of surfers.

Additionally, while not all site developers have made the transition to standards based web sites, those who want to can do so with much less fear than they may have had when this campaign was launched.

Where did it fall short?

The method of redirecting a visitor immediately—while its intentions were good and its use was applicable in some situations—was too easy to employ. As such it became an easy out for site builders who didn't want to bother with testing their sites in browsers like Netscape 4, even if they were not concerned with the use of standards based markup.

In a much more extreme case of misuse and abuse it appears that some spammers latched onto the redirect method promoted by the BUC documentation. They then abused it to redirect people both from inside their mail clients and from advertised sites, suggesting that the Web Standards Project was responsible for, or condoned, the unsolicited messages. None of the sites we've seen that abuse this technique have anything to do with the WaSP, and we condemn such abuse in the strongest possible terms.

Learn more about how [The WaSP Hates Spam and Viruses](#).

What now?

Now that the playing field is more level, it is time for site builders to make more of an effort to educate themselves on ways to take advantage of the gains that have been made. In the coming months the Web Standards Project plans on helping site builders learn more about using standards intelligently and in a more inclusive manner.

[Legal](#)



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Last Revised: 08 October 2004 (ddw)

This site will look much better in a browser that supports current Web standards, but the contents are accessible to any browser.

Search KY:

Options

KY Office of Public Advocacy

The Public Advocate

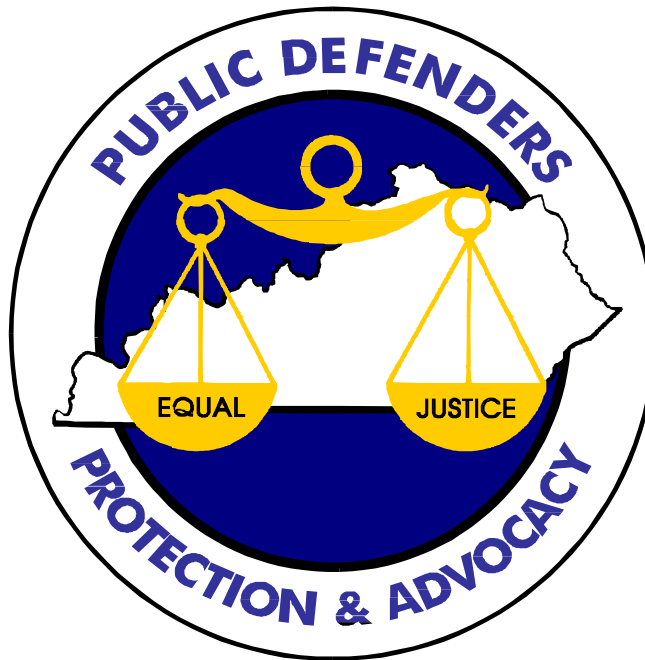


Ernie W. Lewis was appointed to a 4 year term as Public Advocate for the Commonwealth of Kentucky on October 1, 1996. He has been reappointed to a 4 year term until July of 2008. He is a native of Missouri. Ernie received his BA degree from Baylor University, and his Masters of Divinity degree from Vanderbilt University in 1973, and graduated from the Washington University Law School (St. Louis) in 1977. He has been with OPA since his graduation, serving as an appellate lawyer and head of the Office's trial services efforts. He was director of the Office's Richmond Trial Office which covered multiple counties for 12 1/2 years. Ernie has been a faculty member of the National Criminal Defense College in Macon, Georgia since 1985, and is a charter board member of the Kentucky Association of Criminal Defense Lawyers. He writes a regular search and seizure column for the Office of Public Advocacy's journal, [The Advocate](#) and was editor of that publication from 1978-1983. He has represented capital clients at trial, appeal and in state and federal post-conviction proceedings and is known nationally for his commitment as an educator and mentor of public defenders. He was counsel in *Gall v Parker*, 231 F.3d 265(6th Cir. 2000), a capital conviction in which the 6th Circuit granted The Writ of Habeas Corpus. He has represented numerous capital clients at the trial level. As Public Advocate, he serves as a member of the [Kentucky Criminal Justice Council \(KCJC\)](#), and [Chair of the Corrections/Community Based Sanctions Committee \(KCJC's\)](#), the Corrections Commission and the [Governor's Council on Domestic Violence & Sexual Assault](#). He has served since 1996 on the [Board of Appalachian Research & Defense Fund](#). In 2000, Ernie was selected by the Kentucky Bar Association as Kentucky's Outstanding Lawyer, and in 2002, KBA president Steve Catron presented Ernie with The Professionalism & Excellence Award. He presented at the 2002 Symposium at the University of Chicago on [Echoes of Grace: From the Prison to the State House](#).

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Updated: April 12, 2004

*KENTUCKY
DEPARTMENT OF PUBLIC
ADVOCACY*



DEFENDER CASELOAD REPORT
Fiscal Year 2003 -2004

Erwin W. Lewis
Public Advocate
September 2004

DPA DEFENDER MISSION STATEMENT

Provide each client with high quality services through an effective delivery system, which ensures a defender staff dedicated to the interests of their clients and the improvement of the criminal justice system.

DIVISION MISSION STATEMENTS

Law Operations

As a team, effectively and efficiently provide all critical support services to our internal and external DPA customers to meet the agency's mission of high quality representation of clients.

Trials

Serve as leaders of the criminal defense bar in every community across the Commonwealth by providing high quality representation for every client facing loss of life or liberty at the trial level.

Post-Trials

Through high-quality representation, defend the life and liberty of post-trial clients and protect the statutory and constitutional rights of those the state has incarcerated or confined.

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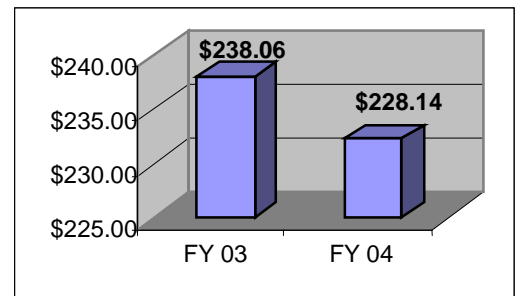
Executive Summary:

In FY 2004, DPA saw overall caseloads rise, funding per case drop and Cases per Attorney increase.

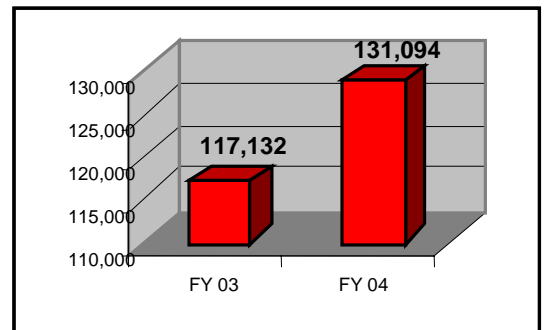
In Fiscal Year 2004 (July 1, 2003-June 30, 2004) the Department of Public Advocacy (DPA), Kentucky's statewide Public Defender Program, provided representation in **131,094** cases. The highlights of this representation in FY 2004 are:

- Overall cases rose to **131,094**, up from over 117,000 in FY 2003.
- Trial cases increased in FY 2004, rising from over 115,000 cases in FY 2003 to **129,159** cases—an increase of **12%** over FY 2003.
- The Post-Trial Division was assigned 1,935 cases—a decrease of .05% from FY 2003
- Of the **129,159** trial cases, 23% were Circuit Court cases and 77% were District Court cases. This continues the trend toward more Circuit Court cases since FY 1997.
- The Trial Division opened **18,006** Juvenile cases in FY 04. This represents an increase of over 9% from FY 03.
- The average number of new cases opened in FY 04 by a trial attorney rose from 484 in FY 2003 to **489** in FY 2004, an increase of **1.1%**.
- **Fifteen** Trial Division field offices had average caseloads of over 500 new open cases per lawyer, far in excess of national standards. **One** trial office exceeded 600 new open cases per lawyer.
- DPA per case funding decreased by **4.2%** in FY 2004, falling from \$238.06 to **\$228.14**.
- DPA Per Capita funding increased by 7.2% over FY 03, rising from \$6.81 to \$7.30.
- Of the **129,159** trial cases, **2,884** cases were handled by contract conflict counsel receiving cases from DPA full-time offices, compared to 2,700 conflict cases in FY 03.
- The full-time Kentucky Public Defender system now covers all but two counties.

DPA Funding Per Case: a **4.2%** drop in FY 2004



DPA Caseload – All Divisions: a **12%** increase over FY 2003



Despite the rising caseload, DPA attorneys continue to represent Kentucky's indigent at workloads far in excess of national standards. DPA attorneys serve as the voice for those in Kentucky's criminal justice system who would otherwise be unheard.

Erwin W. Lewis
Public Advocate

Tab 1

DEPARTMENT OF PUBLIC ADVOCACY
FISCAL YEAR 2004 REPORTED FUNDING AND CASES
Per Case Funding Drops while Per Capita Funding Increases
July 1, 2003 - June 30, 2004

TRIAL DIVISION

I. Full-Time DPA Offices: Total 118 Counties, 27 Offices

Population	4,044,096
General Funding	\$ 18,048,187.00
Local Dollar Contributions	\$ 1,894,495.00
Revenue from Partial Fees	\$ 1,530,981.00
Total Funding	\$ 21,473,663.00
Reported Trial Cases	129,159
Average Trial Full-Time Per Case Funding	\$ 166.26

II. Part-Time DPA Trial Contract Counties: Total 2 Counties (Barren and Metcalfe)

Population	48,795
General Funding from DPA	\$ 202,586.00
Local Dollar Contributions	\$ 23,424.00
Total Funding	\$ 226,010.00
Reported Trial Cases	376
Average Trial Contract Per Case Funding	\$ 601.09

III. Capital Trial Branch

General Funding	\$ 1,013,894.00
Reported Trial Cases	16
Average Capital Trial Branch Per Case Funding	\$ 63,368

IV. Other Trial Division Expenditures

Other Trial Division Expenses	\$ 192,981.00
-------------------------------	---------------

V. Total Trial Division Expenditures

Total Trial Dollars	\$ 22,906,548.00
Total Trial Cases	129,159
Average Funding per Trial Case	\$ 180.58

POST-TRIAL DIVISION

VI. Appeals Branch

Appeals	\$	1,091,651.00
Of-Counsel Appeals	\$	73,000.00
Capital Appeals	\$	481,698.00
Total Appeals Branch Expenditures	\$	1,646,349.00
Appellate Cases (including Louisville appeals cases)		360
Average Per Case Funding	\$	4,573.19

VII. Juvenile Post-Disposition Branch

Juvenile Post-Dispositional Dollars	\$	653,619.00
JAIBG Match Dollars	\$	84,038.00
Total Dollars	\$	737,657.00
Juvenile Appeals		47
Juvenile Access to Courts		965
JAIBG Cases		80
Total Juvenile Post-Disposition Branch Cases		1,092
Average Per Case Funding	\$	675.51

VIII. Post-Conviction Branch

Frankfort Office	\$	492,713.00
Capital Post-Conviction	\$	443,163.00
LaGrange Post-Conviction & Capital Conflicts	\$	459,627.00
LaGrange Capital Conflicts	\$	227,743.00
Kentucky Innocence Project	\$	320,551.00
Total Post-Conviction Expenditures	\$	1,943,797.00
Capital Post-Conviction Cases		50
Non-capital Post-Conviction		417
"Kentucky Innocence Project" cases		16
Total Post-Conviction Cases		483
Average Per Case Funding	\$	1,020.11

IX. Other Post-Trial Division Funding

(administration, apportioned agency overhead rate, law clerks)

\$ 208,789.00

X. Total Post-Trial Division Expenditures

Total Post-Trial Dollars \$ 4,536,592.00

Total Post-Trial Cases 1,935

Average Total Post-Trial Per Case Funding \$ 2,344.49

XI. Other Areas Funded

Office of the Public Advocate \$ 965,369.00

Law Operations \$ 1,499,661.00

Total Unclassified Funding \$ 2,465,030.00

GRAND TOTALS

DPA Funding \$ 29,908,170.00

Total Reported Cases 131,094

Funding Per Case \$ 228.14

Population 4,092,891

Funding Per Capita \$ 7.31

Statement of Definitions: Trial and Post Trial Cases and Case Counting Methods

Total cases listed for a branch, division, or DPA as a whole are only those cases that were *opened* during the fiscal year being reported. The totals do not include the numerous, ongoing cases handled by DPA that were opened in previous fiscal years. This exclusion is particularly important in capital cases, which typically remain open for several years.

DPA has extensive protocols for the application of case definitions and case counting methods that take into account the unique differences among circuit and district court cases, juvenile and adult cases, etc. These definitions were developed in concert with staff input, KRS requirements, and commonly accepted statistical methodology. Consistency of application is insured through the use of the agency's Case Tracking System (CTS), an in-house database.

Throughout this document, the following definitions and methods of case counting are used consistently.

Trial Division Cases

A **case** consists of a single accused, having either under the same or different case number(s), one or more charges, allegations, or proceedings arising out of one event or a group of related contemporaneous events. These charges must be brought contemporaneously against the defendant, stemming from the same course of conduct, and involving proof of the same facts. Some cases assigned to individual attorneys are conducted, either wholly or in part, outside the confines of state courts (e.g., parole revocation hearings, KRS 31.110 line-ups, interrogations, other pre-charge events, witness representations); however, to be counted as a "case" for Trial Division statistical purposes, a formal appointment by a court with appropriate jurisdiction is required. An individual attorney's actions do not constitute a "case" (for agency statistical purposes) if the activity is brief, strictly routine (e.g., standing in for arraignment purposes at a regularly scheduled motion hour, responding to inmate correspondence), and performed as a courtesy to the court.

In addition to adhering to the general agency definition of a "case," to be counted as a **capital eligible case**, an accused must be charged with at least one count of kidnapping or murder, with a qualifying KRS aggravator identified. The number of attorneys assigned to the case has no bearing on the agency's counting of capital cases, and, because cases must be entered and categorized upon assignment, the agency does not require prior receipt of notice from the Commonwealth's Attorney that the death penalty will be sought.

Post Trial Division Cases

The Post Trial Division has three branches, each of which has a different mission and function. Louisville and Lexington have their own Post-trial Divisions. Cases are counted in accordance with the mission and function of each branch. Across the division, a case is assigned and counted as a case at the following points in the process:

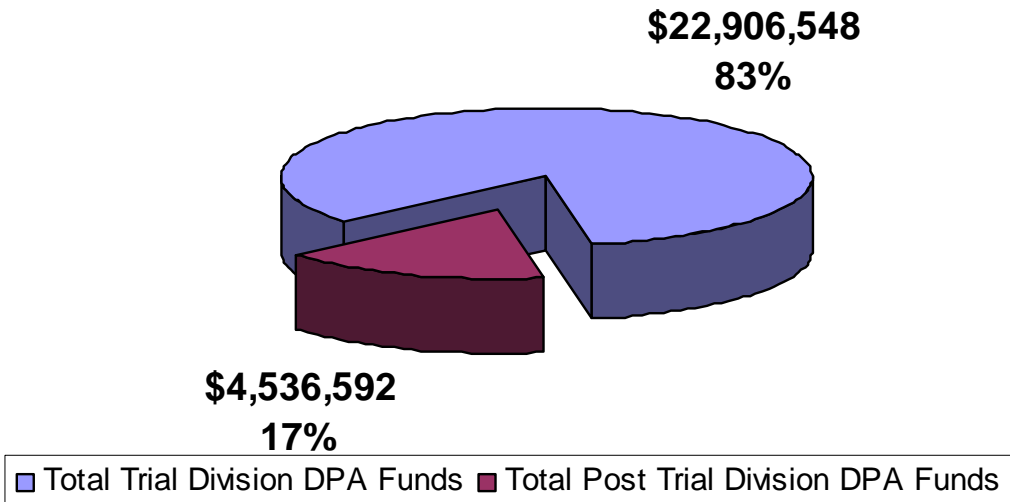
- a. When a direct appeal is received and the case is assigned to counsel to brief.
- b. When a post conviction appeal is received and the case is assigned to counsel to brief. These include appeals from RCR 11.42 denials, CR 60.02 denials, state habeas denials, conditional guilty pleas, probation revocations, denials of requests to withdraw guilty pleas, jail credit denials, sentence reduction denials, and Lewis hearing appeals.
- c. When a petition for habeas corpus is filed in the U.S. District Court.
- d. When a final (versus proof) brief is filed on a habeas case in the Sixth Circuit Court of Appeals.
- e. When a petition for writ of certiorari is granted and briefing is ordered.
- f. When a motion for discretionary review is granted and briefing is ordered.

Other cases which are counted in the Post Trial Division include:

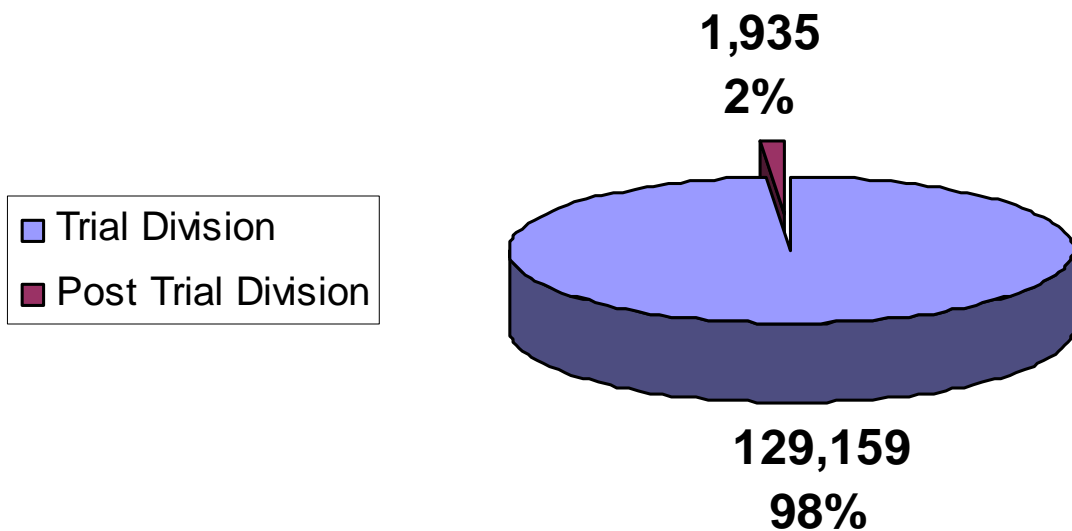
- g. Original actions filed and extraordinary writs filed in a circuit court, court of appeals, supreme court, or federal court.
- h. Fact, duration or condition of confinement cases pursued on behalf of clients under eighteen years of age who are in the juvenile system. These include inter alia motions to terminate commitment, cases pursued as Section 1983 litigation, ARC hearings, YO sentencing hearings where JPDB lawyers do not enter the case until the sentencing stage as the attorneys for the child in circuit court, supervised placement revocation hearings.
- i. state habeas actions
- j. RCR 11.42 pleadings
- k. CR 60.02 pleadings
- l. Section 1983 litigation related to capital post conviction representation
- m. Clemency filings on behalf of capital and non-capital clients
- n. Motions filed in post conviction to correct the sentence
- o. Motions filed to reopen cases pursuant to the Kentucky Innocence Project

Division of Caseload vs. Division of Funding
for Kentucky Department of Public Advocacy

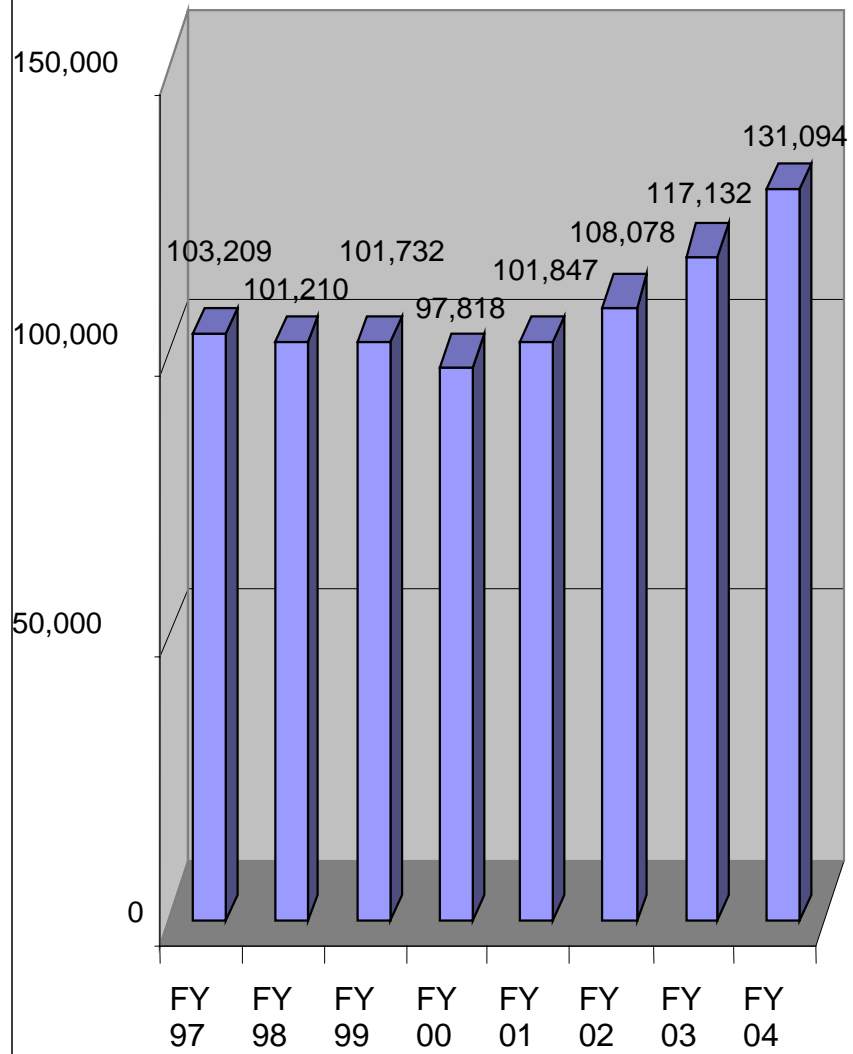
Kentucky DPA Funding by Division, FY 2004



DPA Caseload by Division FY 2004



Total DPA Caseload: Trial & Post-Trial Combined: Caseload Continues to Rise



Tab 2

DPA Funding FY 2004 Per Trial Division Case by Field Office: Average Funding Per Trial Case by Field Office is \$160 Per Case

Office	Funding*	Cases	Funding Per Case
Bell	\$436,163	2,157	\$202.21
Boone	\$359,260	3,104	\$115.74
Bowling Green	\$762,101	4,090	\$186.33
Bullitt	\$351,820	2,224	\$158.19
Catlettsburg	\$107,092	1,005	\$106.56
Columbia	\$578,154	3,705	\$156.05
Covington	\$1,024,849	5,394	\$190.00
Danville	\$716,813	3,005	\$238.54
Elizabethtown	\$1,126,849	6,338	\$177.79
Frankfort	\$482,611	2,518	\$191.66
Harrison	\$215,375	1,911	\$112.70
Hazard	\$761,400	5,563	\$136.87
Henderson	\$553,487	3,457	\$160.11
Hopkinsville	\$860,356	5,770	\$149.11
LaGrange	\$381,481	1,990	\$191.70
Lexington	\$969,009	7,437	\$130.30
London	\$792,988	4,127	\$192.15
Louisville	\$3,254,000	28,267	\$115.12
Madisonville	\$490,646	2,467	\$198.88
Maysville	\$472,631	2,299	\$205.58
Morehead	\$916,532	5,378	\$170.42
Murray	\$514,241	3,758	\$136.84
Owensboro	\$591,143	4,219	\$140.11
Paducah	\$916,127	4,926	\$185.98
Paintsville	\$345,657	1,665	\$207.60
Pikeville	\$561,343	2,906	\$193.17
Richmond	\$595,438	3,320	\$179.35
Somerset	\$735,057	3,398	\$216.32
Stanton	\$576,082	2,745	\$209.87
Full-time office funding	\$20,448,705	129,143	\$158.34

II. PART-TIME CONTRACT COUNTIES: TOTAL 2 COUNTIES

COUNTY	TOTAL	CASES	FUNDING/CASE
Barren & Metcalfe	\$226,010	376	\$ 601.09

GRAND TOTAL	\$20,674,715	129,519	\$ 159.63
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*Funding does not include regional office or trial division director costs

TAB 3

FIELD OFFICE WORKLOAD - ALPHABETICAL LISTING, Fiscal Year 02, 03, and 04 (04 thru Fourth Quarter): 489 Cases Per Attorney

OFFICE	ATTYS*	FY 02 Cases	FY02 Conflict Cases	Conflict % of Total Cases	% change in total caseload	FY 02 AVG cases/atty	FY 03 Cases	FY03 Conflict Cases	Conflict % of Total Cases	% change in total caseload	FY 03 AVG cases/atty	FY 04 Cases: 4th Quarter	FY04 Conflict Cases	Conflict % of Total Cases	% increase in total caseload**	FY 04 AVG cases/atty
Bell County	5	2,236	15	0.67%	23.60%	555.3	2,120	9	0.42%	-5.19%	527.8	2,157	13	0.60%	1.32%	428.8
Boone County	6	0	0	N/A	N/A	N/A	0	0	0.00%	N/A	0.0	3,104	79	2.55%	N/A	504.2
Bowling Green	9	3,951	231	5.85%	2.81%	413.3	4,065	137	3.37%	2.89%	436.4	4,090	107	2.62%	-2.67%	442.6
Bullitt County	4	0	0	N/A	N/A	N/A	1,103	0	0.00%	N/A	551.5	2,224	80	3.60%	101.63%	536.0
Capital Trial Br. ²	7	15	N/A	N/A	50.00%	N/A	17	N/A	N/A	13.33%	N/A	16	N/A	N/A	N/A	N/A
Catlettsburg	2	771	9	1.17%	4.19%	381.0	866	1	0.12%	12.32%	432.5	1,005	33	3.28%	15.92%	486.0
Columbia	7	3,052	58	1.90%	6.01%	499.0	3,135	65	2.07%	2.72%	511.7	3,705	114	3.08%	15.78%	513.0
Covington	12	3,115	60	1.93%	4.01%	381.9	4,022	85	2.11%	29.12%	492.1	5,394	159	2.95%	31.34%	436.3
Danville	6	2,347	197	8.39%	34.42%	430.0	2,762	268	9.70%	17.68%	498.8	3,005	142	4.73%	-0.83%	477.2
Elizabethtown	12	5,710	67	1.17%	2.88%	564.3	6,447	85	1.32%	12.91%	636.2	6,338	105	1.66%	-2.97%	519.4
Frankfort	5	2,824	22	0.78%	15.69%	560.4	3,095	15	0.48%	9.60%	616.0	2,518	5	0.20%	-19.04%	502.6
Harrison ³	4	0	0	N/A	N/A	N/A	0	0	0.48%	9.60%	617.0	1,911	9	0.47%	N/A	475.5
Hazard	9	3,756	71	1.89%	5.03%	460.6	4,675	61	1.30%	24.47%	576.8	5,563	1	0.02%	17.46%	618.0
Henderson	6	2,349	35	1.49%	-2.08%	462.8	2,989	28	0.94%	27.25%	592.2	3,457	41	1.19%	14.58%	569.3
Hopkinsville	11	5,244	202	3.85%	18.27%	560.2	5,342	158	2.96%	1.87%	576.0	5,770	176	3.05%	4.91%	508.5
LaGrange	4	1,512	43	2.84%	17.39%	489.7	1,773	71	4.00%	17.26%	567.3	1,990	41	2.06%	7.92%	487.3
Lexington ¹	18	7,087	N/A	N/A	3.26%	384.4	7,565	11	0.15%	6.74%	419.7	7,437	11	0.15%	-1.83%	412.6
London	8	3,516	146	4.15%	-0.93%	481.4	4,018	274	6.82%	14.28%	534.9	4,127	283	6.86%	-3.84%	480.5
Louisville ¹	53	23,763	N/A	N/A	6.45%	421.9	25,981	78	0.30%	9.33%	507.9	28,267	101	0.36%	8.47%	531.4
Madisonville	5	2,009	67	3.33%	-1.71%	485.5	2,119	81	3.82%	5.48%	509.5	2,467	74	3.00%	12.14%	478.6
Maysville	4	1,921	119	6.19%	4.63%	450.5	2,219	88	3.97%	15.51%	426.2	2,299	129	5.61%	-0.35%	542.5
Morehead	10	4,695	130	2.77%	10.44%	507.2	4,670	100	2.14%	-0.53%	507.8	5,378	109	2.03%	12.75%	526.9
Murray	6	847	10	1.18%	43.56%	139.5	2,747	70	2.55%	224.32%	446.2	3,758	159	4.23%	33.40%	599.8
Owensboro	8	3,467	32	0.92%	1.05%	429.4	3,296	35	1.06%	-4.93%	407.6	4,219	46	1.09%	26.66%	521.6
Paducah	10	5,039	147	2.92%	1.39%	543.6	4,832	124	2.57%	-4.11%	523.1	4,926	139	2.82%	-0.61%	478.7
Paintsville	3	1,151	31	2.69%	5.50%	373.3	1,437	36	2.51%	24.85%	467.0	1,665	52	3.12%	13.03%	537.7
Pikeville	6	2,692	45	1.67%	11.65%	441.2	2,598	40	1.54%	-3.49%	426.3	2,906	42	1.45%	10.16%	477.3
Richmond	7	3,164	244	7.71%	17.75%	417.1	3,217	220	6.84%	1.68%	428.1	3,320	176	5.30%	-3.40%	449.1
Somerset	6	2,589	231	8.92%	24.53%	471.6	2,813	255	9.07%	8.65%	426.3	3,398	239	7.03%	10.76%	526.5
Stanton	5	2,489	166	6.67%	59.96%	464.6	2,687	284	10.57%	7.96%	480.6	2,745	219	7.98%	-7.61%	505.2
TOTAL	258	101,311	2,378	2.35%	8.48%	435.8	112,610	2,679	2.38%	11.15%	484.3	129,159	2,884	2.23%	12.03%	489.4

*Authorized compliment as of 06/30/04. May differ from actual staffing.

**% increase in total caseload is the percentage rise/drop of total cases from the previous year

1. Lexington and Louisville's workload numbers also include post-trial cases handled internally by those offices. These are included to provide a clearer assessment of individual attorneys' workloads. Conflict cases are included in the caseload #s (but not atty avgs.) for all offices.

2. The Capital Trial Branch is included to recognize the services of its attorneys and staff, but its cases are excluded from "avg. cases/atty" comparison analysis due to their length and complexity.

3. Harrison office was opened mid FY 2004. The office numbers include cases that were actually opened in surrounding offices and later absorbed by the Harrison office. This re-districting of the numbers primarily affects the year-end totals for the Frankfort and Maysville offices.

NOTE: The above numbers do not include contract cases for Barren and Metcalf which are listed on a later chart breakdown by county.

FIELD OFFICE WORKLOAD -- By Attorney Avg Caseload, Fiscal Year 02, 03, and 04 (04 thru Fourth Quarter): 489 Cases Per Attorney

OFFICE	ATTYS*	FY 02 Cases	FY02 Conflict Cases	Conflict % of Total Cases	% change in total caseload	FY 02 AVG cases/atty	FY 03 Cases	FY03 Conflict Cases	Conflict % of Total Cases	% change in total caseload	FY 03 AVG cases/atty	FY 04 Cases: 4th Quarter	FY04 Conflict Cases	Conflict % of Total Cases	% increase in total caseload**	FY 04 AVG cases/atty
Hazard	9	3,756	71	1.89%	5.03%	460.6	4,675	61	1.30%	24.47%	576.8	5,563	1	0.02%	17.46%	618.0
Murray	6	847	10	1.18%	43.56%	139.5	2,747	70	2.55%	224.32%	446.2	3,758	159	4.23%	33.40%	599.8
Henderson	6	2,349	35	1.49%	-2.08%	462.8	2,989	28	0.94%	27.25%	592.2	3,457	41	1.19%	14.58%	569.3
Maysville	4	1,921	119	6.19%	4.63%	450.5	2,219	88	3.97%	15.51%	426.2	2,299	129	5.61%	-0.35%	542.5
Paintsville	3	1,151	31	2.69%	5.50%	373.3	1,437	36	2.51%	24.85%	467.0	1,665	52	3.12%	13.03%	537.7
Bullitt County	4	0	0	N/A	N/A	N/A	1,103	0	0.00%	N/A	551.5	2,224	80	3.60%	101.63%	536.0
Louisville ¹	53	23,763	N/A	N/A	6.45%	421.9	25,981	78	0.30%	9.33%	507.9	28,267	101	0.36%	8.47%	531.4
Morehead	10	4,695	130	2.77%	10.44%	507.2	4,670	100	2.14%	-0.53%	507.8	5,378	109	2.03%	12.75%	526.9
Somerset	6	2,589	231	8.92%	24.53%	471.6	2,813	255	9.07%	8.65%	426.3	3,398	239	7.03%	10.76%	526.5
Owensboro	8	3,467	32	0.92%	1.05%	429.4	3,296	35	1.06%	-4.93%	407.6	4,219	46	1.09%	26.66%	521.6
Elizabethtown	12	5,710	67	1.17%	2.88%	564.3	6,447	85	1.32%	12.91%	636.2	6,338	105	1.66%	-2.97%	519.4
Columbia	7	3,052	58	1.90%	6.01%	499.0	3,135	65	2.07%	2.72%	511.7	3,705	114	3.08%	15.78%	513.0
Hopkinsville	11	5,244	202	3.85%	18.27%	560.2	5,342	158	2.96%	1.87%	576.0	5,770	176	3.05%	4.91%	508.5
Stanton	5	2,489	166	6.67%	59.96%	464.6	2,687	284	10.57%	7.96%	480.6	2,745	219	7.98%	-7.61%	505.2
Boone County	6	0	0	N/A	N/A	N/A	0	0	0.00%	N/A	0.0	3,104	79	2.55%	N/A	504.2
Frankfort	5	2,824	22	0.78%	15.69%	560.4	3,095	15	0.48%	9.60%	616.0	2,518	5	0.20%	-19.04%	502.6
LaGrange	4	1,512	43	2.84%	17.39%	489.7	1,773	71	4.00%	17.26%	567.3	1,990	41	2.06%	7.92%	487.3
Catlettsburg	2	771	9	1.17%	4.19%	381.0	866	1	0.12%	12.32%	432.5	1,005	33	3.28%	15.92%	486.0
London	8	3,516	146	4.15%	-0.93%	481.4	4,018	274	6.82%	14.28%	534.9	4,127	283	6.86%	-3.84%	480.5
Paducah	10	5,039	147	2.92%	1.39%	543.6	4,832	124	2.57%	-4.11%	523.1	4,926	139	2.82%	-0.61%	478.7
Madisonville	5	2,009	67	3.33%	-1.71%	485.5	2,119	81	3.82%	5.48%	509.5	2,467	74	3.00%	12.14%	478.6
Pikeville	6	2,692	45	1.67%	11.65%	441.2	2,598	40	1.54%	-3.49%	426.3	2,906	42	1.45%	10.16%	477.3
Danville	6	2,347	197	8.39%	34.42%	430.0	2,762	268	9.70%	17.68%	498.8	3,005	142	4.73%	-0.83%	477.2
Harrison ³	4	0	0	N/A	N/A	N/A	0	0	0.48%	9.60%	617.0	1,911	9	0.47%	N/A	475.5
Richmond	7	3,164	244	7.71%	17.75%	417.1	3,217	220	6.84%	1.68%	428.1	3,320	176	5.30%	-3.40%	449.1
Bowling Green	9	3,951	231	5.85%	2.81%	413.3	4,065	137	3.37%	2.89%	436.4	4,090	107	2.62%	-2.67%	442.6
Covington	12	3,115	60	1.93%	4.01%	381.9	4,022	85	2.11%	29.12%	492.1	5,394	159	2.95%	31.34%	436.3
Bell County	5	2,236	15	0.67%	23.60%	555.3	2,120	9	0.42%	-5.19%	527.8	2,157	13	0.60%	1.32%	428.8
Lexington ¹	18	7,087	N/A	N/A	3.26%	384.4	7,565	11	0.15%	6.74%	419.7	7,437	11	0.15%	-1.83%	412.6
Capital Trial Br. ²	7	15	N/A	N/A	50.00%	N/A	17	N/A	N/A	13.33%	N/A	16	N/A	N/A	N/A	N/A
TOTAL	258	101,311	2,378	2.35%	8.48%	435.8	112,610	2,679	2.38%	11.15%	484.3	129,159	2,884	2.23%	12.03%	489.4

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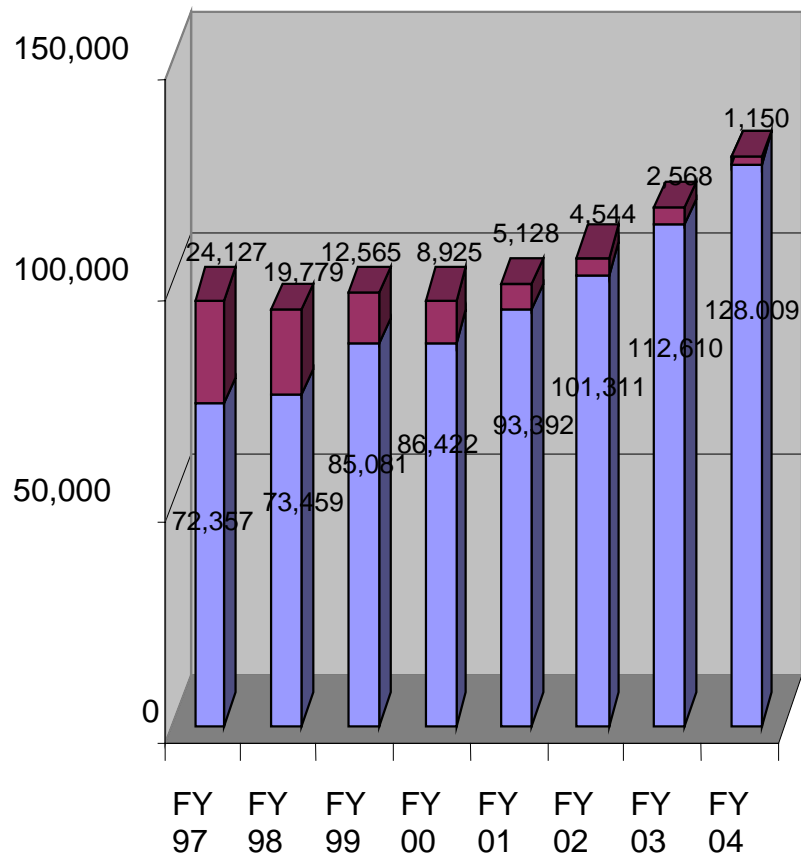
1. Lexington and Louisville's workload numbers also include post-trial cases handled internally by those offices. These are included to provide a clearer assessment of individual attorneys' workloads. Conflict cases are included in the caseload #s (but not atty avgs.) for all offices.

2. The Capital Trial Branch is included to recognize the services of its attorneys and staff, but its cases are excluded from "avg. cases/atty" comparison analysis due to their length and complexity.

3. Harrison office was opened mid FY 2004. The office numbers include cases that were actually opened in surrounding offices and later absorbed by the Harrison office. This re-districting of the numbers primarily affects the year-end totals for the Frankfort and Maysville offices.

NOTE: The above numbers do not include contract cases for Barren and Metcalf which are listed on a later chart breakdown by county.

Trial Division Workload: Field Office and Contract Cases



Field Office
Cases

Contract
Cases

Tab 4

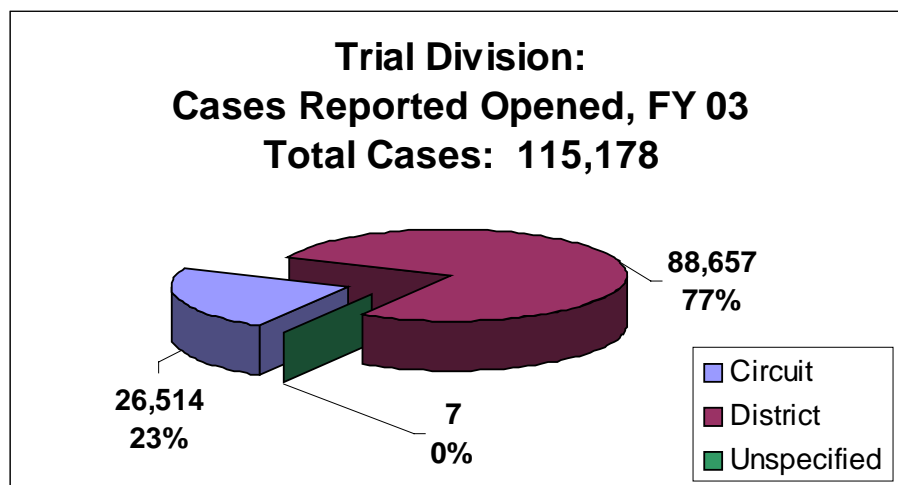
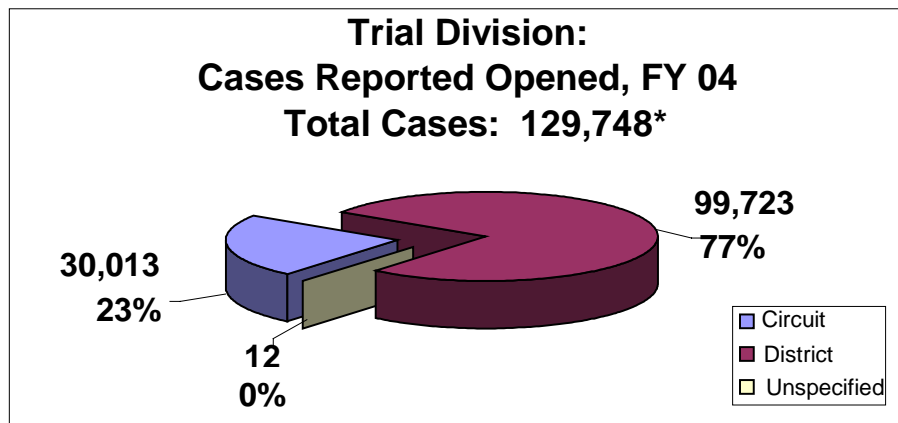
DPA Trial Division Cases Reported Opened FY 2004

- ◆ Of the **trial** cases: 23.14% were Circuit Court cases. **76.86% were District Court cases.**
- ◆ In FY 04, the trend is continuing toward a greater percentage of DPA trial cases being opened in Circuit Court each year. Since FY 02, a higher percentage of cases could be identified by court type compared to previous years due to improved data entry and collection methods.

	<u>Circuit</u>	<u>District</u>
FY 04	23.14%	76.86%
FY 03	23.02%	76.97%
FY 02	21.34%	78.65%
FY 01	21.17%	78.66%
FY 00	20.77%	79.10%
FY 99	19.44%	80.10%
FY 98	17.73%	82.27%
FY 97	16.42%	83.58%

- ◆ The actual number of cases opened in District Court has generally increased during this same period. It has simply increased at a slower rate than the Circuit Court caseload.

* This total number differs from the field office workload because it includes cases from two contract offices and other unassigned contract cases.



DPA Trial Cases Reported Opened by County: FY 2004*: Trend to Rise in Circuit Court Cases Continues

County	Circuit	Circuit %	District	Dist. %	Other	Other %	Total*
ADAIR	168	35.29%	308	64.71%			476
ALLEN	104	58.43%	74	41.57%			178
ANDERSON	83	27.04%	224	72.96%			307
BALLARD	80	32.92%	163	67.08%			243
BARREN	195	79.59%	50	20.41%			245
BATH	85	17.56%	399	82.44%			484
BELL	449	31.03%	998	68.97%			1,447
BOONE	523	30.16%	1211	69.84%			1,734
BOURBON	112	16.02%	587	83.98%			699
BOYD	225	22.17%	790	77.83%			1,015
BOYLE	111	17.56%	517	81.80%	4	0.63%	632
BRACKEN	51	16.67%	255	83.33%			306
BREATHITT	117	14.92%	667	85.08%			784
BRECKINRIDGE	209	41.72%	292	58.28%			501
BULLITT	227	18.23%	1018	81.77%			1,245
BUTLER	147	48.20%	158	51.80%			305
CALDWELL	85	28.33%	215	71.67%			300
CALLOWAY	293	34.15%	565	65.85%			858
CAMPBELL	335	28.63%	835	71.37%			1,170
CARLISLE	14	14.00%	86	86.00%			100
CARROLL	153	33.85%	299	66.15%			452
CARTER	104	11.85%	774	88.15%			878
CASEY	144	34.20%	277	65.80%			421
CHRISTIAN	832	20.73%	3181	79.27%			4,013
CLARK	262	30.79%	589	69.21%			851
CLAY	125	18.06%	567	81.94%			692
CLINTON	154	46.25%	179	53.75%			333
CRITTENDEN	48	18.25%	215	81.75%			263
CUMBERLAND	63	30.29%	145	69.71%			208
DAVIESS	801	23.24%	2645	76.76%			3,446
EDMONSON	78	49.06%	81	50.94%			159

ELLIOTT	32	14.41%	190	85.59%			222
ESTILL	95	23.69%	306	76.31%			401
FAYETTE	2511	33.71%	4937	66.29%			7,448
FLEMING	80	18.91%	342	80.85%	1	0.24%	423
FLOYD	222	19.30%	928	80.70%			1,150
FRANKLIN	412	37.42%	689	62.58%			1,101
FULTON	119	37.78%	196	62.22%			315
GALLATIN	99	35.23%	182	64.77%			281
GARRARD	90	21.53%	327	78.23%	1	0.24%	418
GRANT	129	27.22%	345	72.78%			474
GRAVES	299	15.78%	1596	84.22%			1,895
GRAYSON	192	32.21%	404	67.79%			596
GREEN	95	32.53%	197	67.47%			292
GREENUP	184	19.83%	744	80.17%			928
HANCOCK	51	25.25%	151	74.75%			202
HARDIN	675	18.71%	2933	81.29%			3,608
HARLAN	296	40.94%	427	59.06%			723
HARRISON	71	15.54%	386	84.46%			457
HART	110	20.79%	419	79.21%			529
HENDERSON	523	22.62%	1789	77.38%			2,312
HENRY	71	18.44%	314	81.56%			385
HICKMAN	38	32.20%	80	67.80%			118
HOPKINS	414	23.66%	1336	76.34%			1,750
JACKSON	65	19.58%	267	80.42%			332
JEFFERSON	3911	13.79%	24457	86.21%			28,368
JESSAMINE	216	19.91%	869	80.09%			1,085
JOHNSON	145	23.62%	469	76.38%			614
KENTON	982	23.44%	3207	76.54%	1	0.02%	4,190
KNOTT	62	13.81%	387	86.19%			449
KNOX	154	14.65%	897	85.35%			1,051
LARUE	62	13.72%	390	86.28%			452
LAUREL	362	23.74%	1163	76.26%			1,525
LAWRENCE	83	18.99%	354	81.01%			437
LEE	76	27.24%	203	72.76%			279

LESLIE	42	16.28%	216	83.72%			258
LETCHER	301	21.95%	1068	77.90%	2	0.15%	1,371
LEWIS	76	22.49%	262	77.51%			338
LINCOLN	71	16.36%	362	83.41%	1	0.23%	434
LIVINGSTON	28	11.97%	206	88.03%			234
LOGAN	343	65.71%	179	34.29%			522
LYON	59	29.35%	142	70.65%			201
MCCRACKEN	770	18.51%	3391	81.49%			4,161
MCCREARY	186	32.80%	381	67.20%			567
MCLEAN	64	49.61%	65	50.39%			129
MADISON	616	36.26%	1083	63.74%			1,699
MAGOFFIN	93	19.29%	389	80.71%			482
MARION	251	46.65%	287	53.35%			538
MARSHALL	247	24.50%	761	75.50%			1,008
MARTIN	72	36.55%	125	63.45%			197
MASON	245	19.97%	982	80.03%			1,227
MEADE	188	30.77%	423	69.23%			611
MENIFEE	50	21.74%	180	78.26%			230
MERCER	84	18.96%	359	81.04%			443
METCALFE	70	53.44%	61	46.56%			131
MONROE	163	41.27%	232	58.73%			395
MONTGOMERY	255	25.27%	754	74.73%			1,009
MORGAN	81	18.84%	349	81.16%			430
MUHLENBERG	281	47.71%	308	52.29%			589
NELSON	369	42.96%	490	57.04%			859
NICHOLAS	46	19.33%	192	80.67%			238
OHIO	176	30.77%	396	69.23%			572
OLDHAM	108	27.14%	290	72.86%			398
OWEN	64	25.10%	191	74.90%			255
OWSLEY	53	18.03%	241	81.97%			294
PENDLETON	64	14.92%	365	85.08%			429
PERRY	307	8.11%	3477	91.86%	1	0.03%	3,785
PIKE	325	19.23%	1365	80.77%			1,690
POWELL	120	18.43%	531	81.57%			651

PULASKI	530	39.23%	821	60.77%			1,351
ROBERTSON	15	14.85%	86	85.15%			101
ROCKCASTLE	122	27.98%	314	72.02%			436
ROWAN	180	14.95%	1024	85.05%			1,204
RUSSELL	109	18.54%	479	81.46%			588
SCOTT	84	15.05%	474	84.95%			558
SHELBY	218	20.74%	833	79.26%			1,051
SIMPSON	190	59.01%	132	40.99%			322
SPENCER	47	31.97%	100	68.03%			147
TAYLOR	358	41.39%	507	58.61%			865
TODD	153	47.08%	172	52.92%			325
TRIGG	26	13.54%	166	86.46%			192
TRIMBLE	29	19.08%	123	80.92%			152
UNION	123	27.64%	322	72.36%			445
WARREN	1306	41.75%	1821	58.22%	1		3,128
WASHINGTON	90	46.63%	103	53.37%			193
WAYNE	398	45.12%	484	54.88%			882
WEBSTER	95	21.64%	344	78.36%			439
WHITLEY	197	32.78%	404	67.22%			601
WOLFE	59	17.20%	284	82.80%			343
WOODFORD	113	22.83%	382	77.17%			495
TOTAL	30,013	23.13%	99,723	76.86%	12	0.01%	129,748

*NOTE: These numbers include conflict case numbers.

Trial Division Case and Population Totals with Average Number of Cases per 1,000 Population*: Case Rate Measured by Population Grows Again in FY 2004

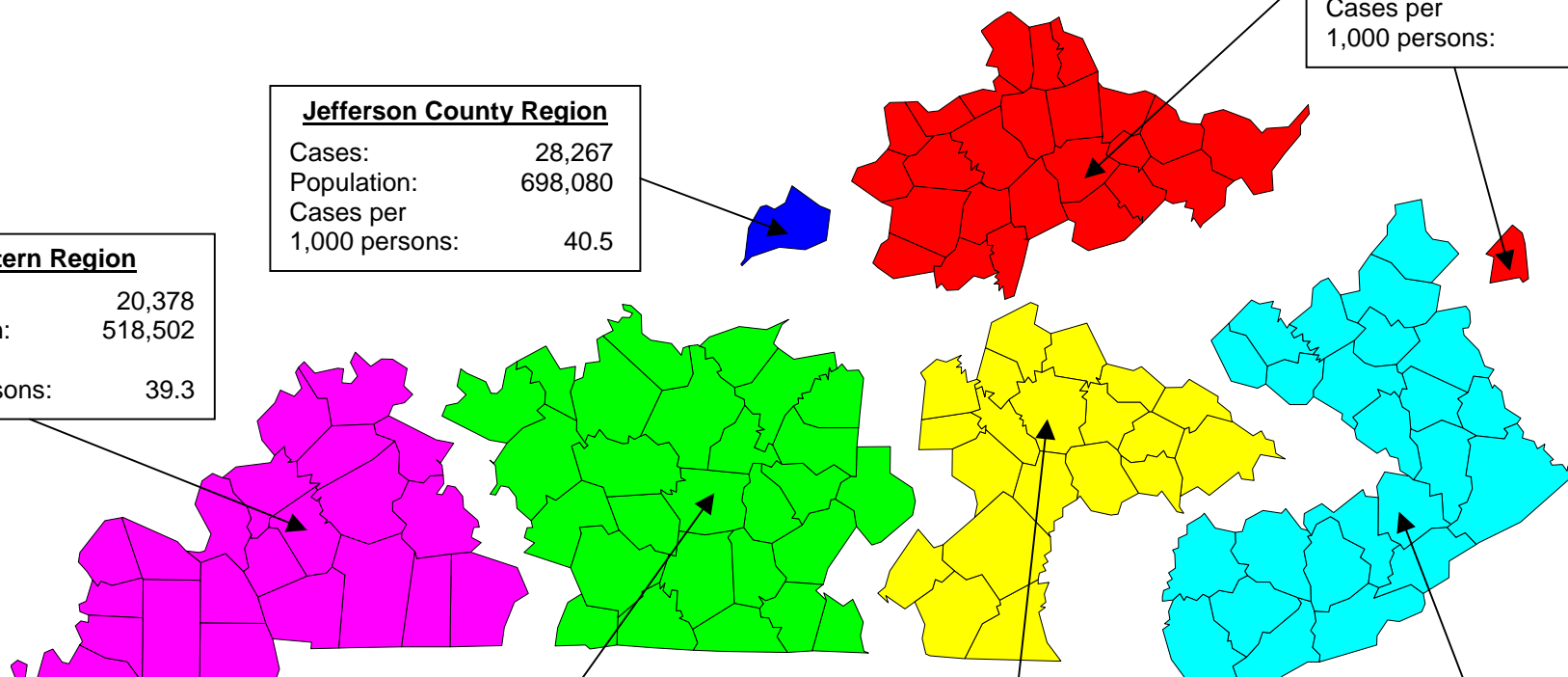
<u>Trial Division Totals</u>	
Cases:	129,519
Population:	4,092,891
Cases per 1,000 persons:	31.60

<u>Case Rate Rankings:</u>	
(1) Jefferson:	40.5
(2) Western:	39.3
(3) Eastern:	35.3
(4) Central:	28.2
(5) Bluegrass:	27.8
(6) Northern:	22.8

<u>Northern Region</u>	
Cases:	18,221
Population:	799,958
Cases per 1,000 persons:	22.8

<u>Jefferson County Region</u>	
Cases:	28,267
Population:	698,080
Cases per 1,000 persons:	40.5

<u>Western Region</u>	
Cases:	20,378
Population:	518,502
Cases per 1,000 persons:	39.3



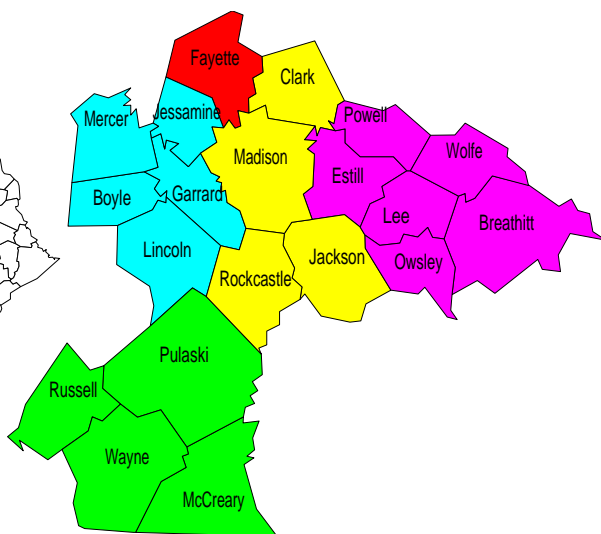
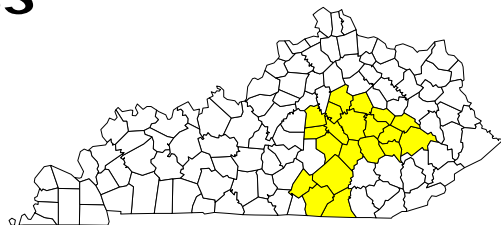
<u>Central Region</u>	
Cases:	20,952
Population:	753,301
Cases per 1,000 persons:	27.8

<u>Bluegrass Region</u>	
Cases:	19,905
Population:	705,512
Cases per 1,000 persons:	28.2

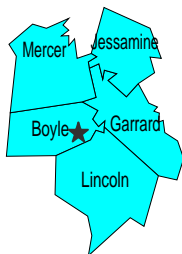
<u>Eastern Region</u>	
Cases:	21,796
Population:	617,538
Cases per 1,000 persons:	35.3

*All population data derived from: Population Division, U.S. Census Bureau; Table CO-EST2002-01-21 - Kentucky County Population Estimates: April 1, 2000 to July 1, 2002 (Release Date: April 17, 2003).

Bluegrass Region



Population: 705,512
Poverty Rate: 15.1%
Unemployment: 5.6%
Less than high school diploma: 26.0%
Total Cases: 19,905
Cases per 1,000 persons: 28.2



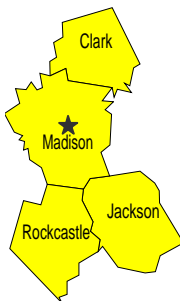
Danville

Population: 129,325
Poverty Rate: 13.2%
Unemployment: 5.0%
Less than h.s. diploma: 25.9%
Total Cases: 3,005
Cases per 1,000 persons: 23.2



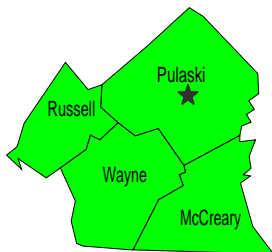
Lexington

Population: 263,618
Poverty Rate: 11.1%
Unemployment: 3.5%
Less than h.s. diploma: 14.2%
Total Cases: 7,437
Cases per 1,000 persons: 28.2



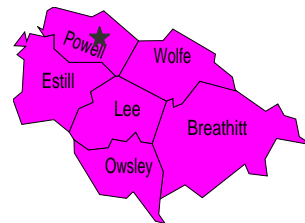
Richmond

Population: 137,621
Poverty Rate: 15.2%
Unemployment: 5.3%
Less than h.s. diploma: 29.4%
Total Cases: 3,320
Cases per 1,000 persons: 24.1



Somerset

Population: 110,870
Poverty Rate: 20.7%
Unemployment: 8.1%
Less than h.s. diploma: 38.3%
Total Cases: 3,398
Cases per 1,000 persons: 30.6



Stanton

Population: 64,078
Poverty Rate: 25.5%
Unemployment: 11.2%
Less than h.s. diploma: 44.4%
Total Cases: 2,745
Cases per 1,000 persons: 42.8

Central Region



Population: 753,301
Poverty Rate: 13.8%
Unemployment: 6.1%
Less than high school diploma: 27.1%
Total Cases: 20,952
Cases per 1,000 persons: 27.8



Bowling Green

Population: 154,565
Poverty Rate: 13.8%
Unemployment: 6.1%
Less than h. s. diploma: 27.1%
Total Cases: 4,090
Cases per 1,000 persons: 26.5



Bullitt County (Shepherdsville)

Population: 116,146
Poverty Rate: 8.6%
Unemployment: 5.7%
Less than h. s. diploma: 24.0%
Total Cases: 2,224
Cases per 1,000 persons: 19.1



Columbia

Population: 126,215
Poverty Rate: 19.0%
Unemployment: 6.0%
Less than h. s. diploma: 37.4%
Total Cases: 3,705
Cases per 1,000 persons: 29.4



Elizabethtown

Population: 178,612
Poverty Rate: 12.8%
Unemployment: 6.9%
Less than h. s. diploma: 24.5%
Total Cases: 6,338
Cases per 1,000 persons: 35.5



Barren County

Population: 38,749
Poverty Rate: 14.9%
Unemployment: 4.3%
Less than h. s. diploma: 30.5%
Total Cases: 245
Cases per 1,000 persons: 6.3



Metcalfe County

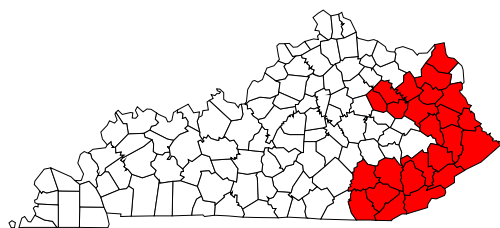
Population: 10,046
Poverty Rate: 19.5%
Unemployment: 4.2%
Less than h. s. diploma: 42.0%
Total Cases: 131
Cases per 1,000 persons: 13.0



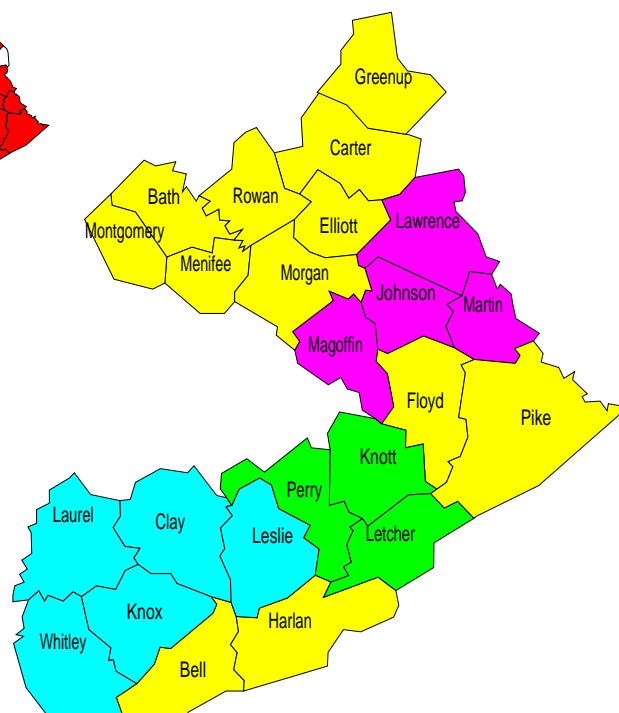
Owensboro

Population: 142,491
Poverty Rate: 12.7%
Unemployment: 6.2%
Less than h. s. diploma: 22.1%
Total Cases: 4,219
Cases per 1,000 persons: 29.6

Eastern Region

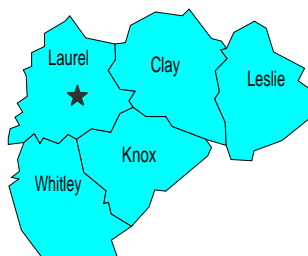


Population: 617,538
Poverty Rate: 22.5%
Unemployment: 7.3%
Less than high school diploma: 39.2%
Total Cases: 21,796
Cases per 1,000 persons: 35.3



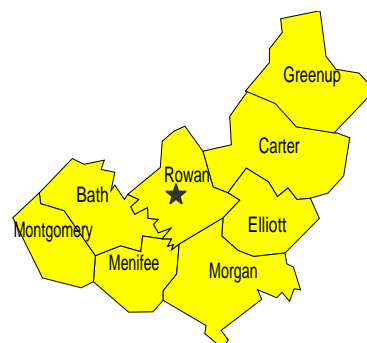
Bell County (Pineville)

Population: 62,699
Poverty Rate: 25.7%
Unemployment: 9.1%
Less than h.s. diploma: 42.3%
Total Cases: 2,157
Cases per 1,000 persons: 34.4



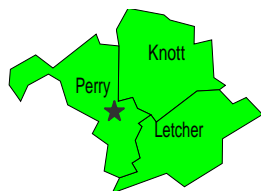
London

Population: 159,335
Poverty Rate: 23.8%
Unemployment: 7.2%
Less than h.s. diploma: 41.9%
Total Cases: 4,127
Cases per 1,000 persons: 25.9



Morehead

Population: 148,414
Poverty Rate: 18.6%
Unemployment: 7.2%
Less than h.s. diploma: 33.0%
Total Cases: 5,378
Cases per 1,000 persons: 36.2

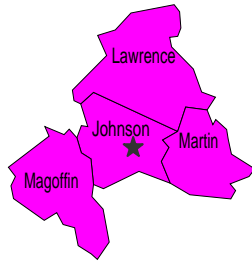
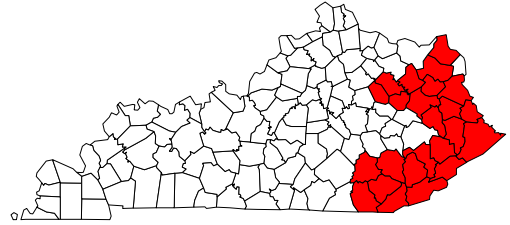


Hazard

Population: 72,034
Poverty Rate: 23.9%
Unemployment: 7.4%
Less than h.s. diploma: 41.5%
Total Cases: 5,563
Cases per 1,000 persons: 77.2

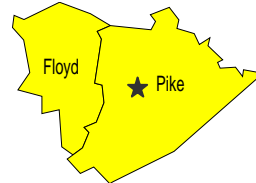
Eastern Region Continued next page...

Eastern Region Continued...



Paintsville

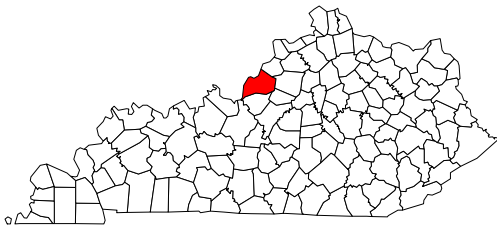
Population:	65,027
Poverty Rate:	24.9%
Unemployment:	8.0%
Less than h.s. diploma:	42.1%
Total Cases:	1,665
Cases per 1,000 persons:	25.6



Pikeville

Population:	110,029
Poverty Rate:	21.9%
Unemployment:	5.9%
Less than h.s. diploma:	38.4%
Total Cases:	2,906
Cases per 1,000 persons:	26.4

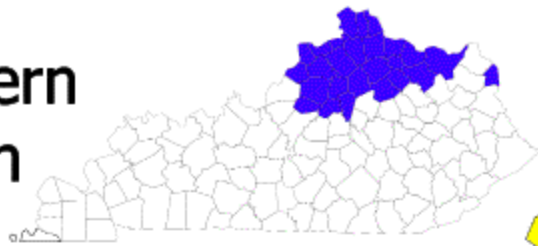
Jefferson County Region



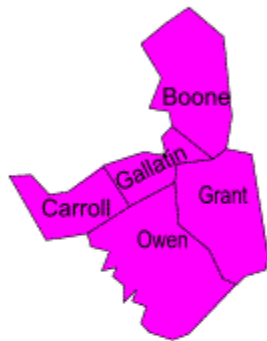
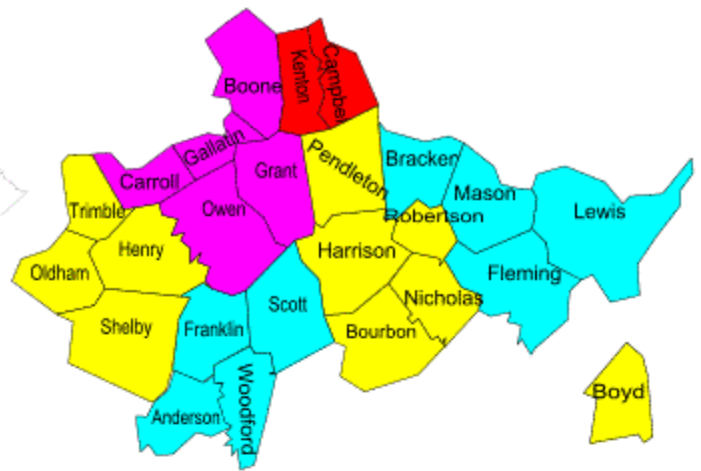
Louisville

Population:	698,080
Poverty Rate:	11.5%
Unemployment:	5.6%
Less than h.s. diploma:	18.2%
Total Cases:	28,267
Cases per 1,000 persons:	40.5

Northern Region

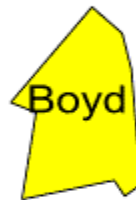


Population:	799,958
Poverty Rate:	10.2%
Unemployment:	4.4%
Less than high school diploma:	21.2%
Total Cases:	18,221
Cases per 1,000 persons:	22.8



Boone County

Population:	145,905
Poverty Rate:	6.1%
Unemployment:	3.6%
Less than h. s. diploma:	14.9%
Total Cases:	3,104
Cases per 1,000 persons:	21.3



Boyd County (Catlettsburg)

Population:	49,603
Poverty Rate:	15.3%
Unemployment:	5.4%
Less than h. s. diploma:	22.0%
Total Cases:	1,005
Cases per 1,000 persons:	20.3



Covington

Population:	240,768
Poverty Rate:	9.3%
Unemployment:	4.0%
Less than h. s. diploma:	18.6%
Total Cases:	5,394
Cases per 1,000 persons:	22.4



Frankfort

Population:	126,485
Poverty Rate:	9.9%
Unemployment:	4.1%
Less than h. s. diploma:	21.3%
Total Cases:	2,518
Cases per 1,000 persons:	19.9



LaGrange

Population:	108,474
Poverty Rate:	8.2%
Unemployment:	3.9%
Less than h. s. diploma:	19.7%
Total Cases:	1,190
Cases per 1,000 persons:	18.3

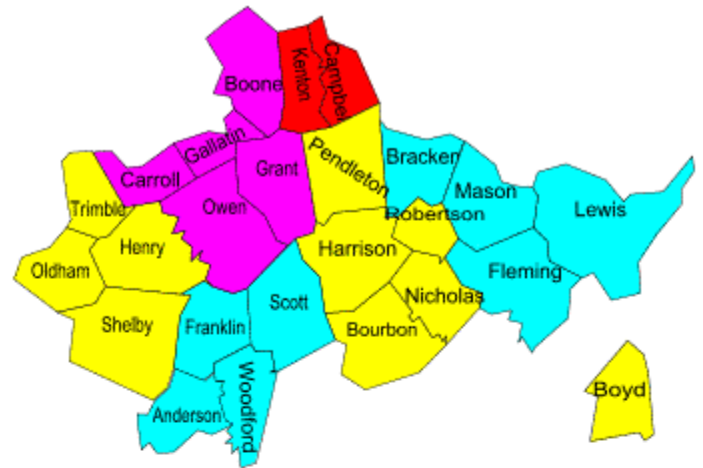
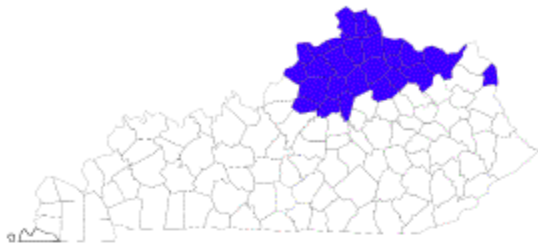


Maysville

Population:	53,437
Poverty Rate:	16.7%
Unemployment:	6.0%
Less than h. s. diploma:	32.2%
Total Cases:	2,299
Cases per 1,000 persons:	43.0

Northern Region continued next page ...

Northern Region Continued...



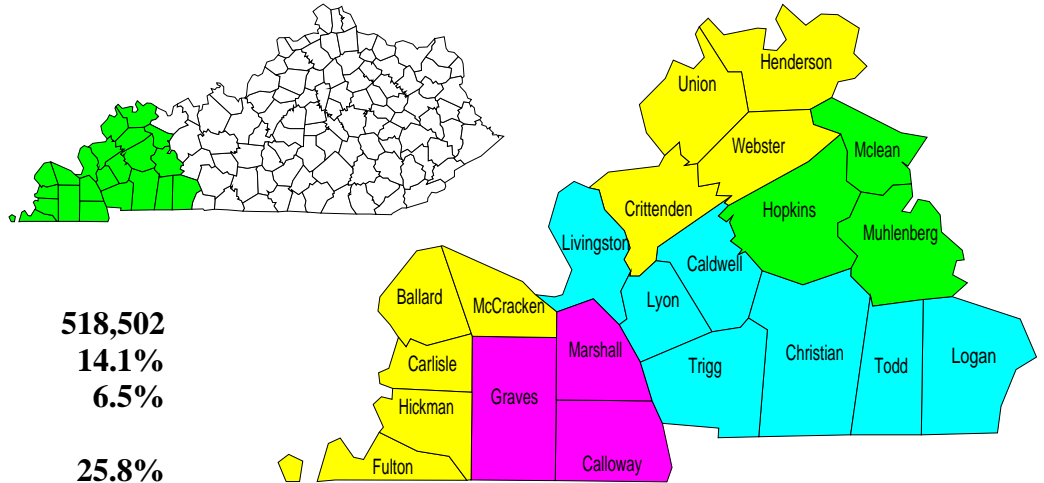
Population:	799,958
Poverty Rate:	10.2%
Unemployment:	4.4%
Less than high school diploma:	21.2%
Total Cases:	18,221
Cases per 1,000 persons:	22.8



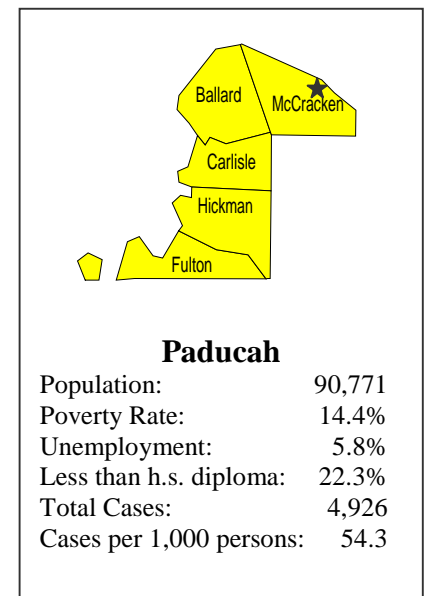
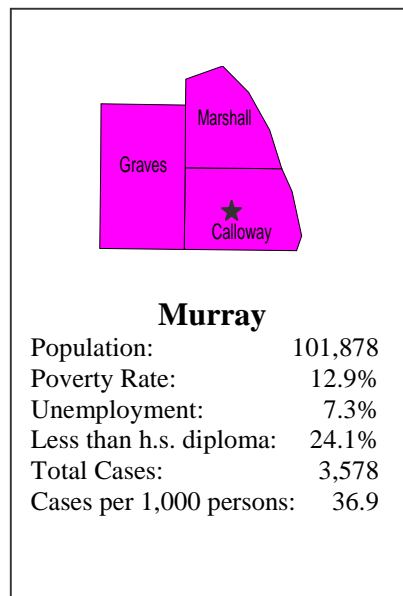
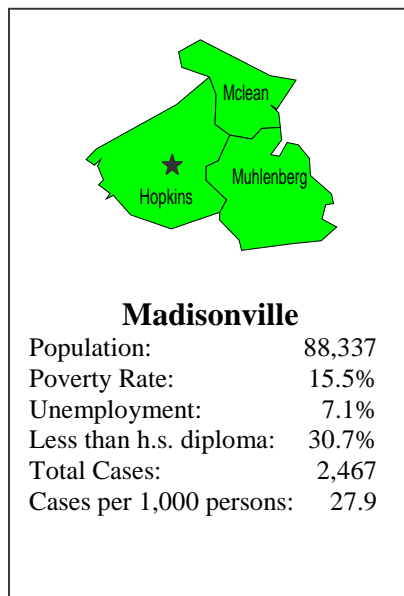
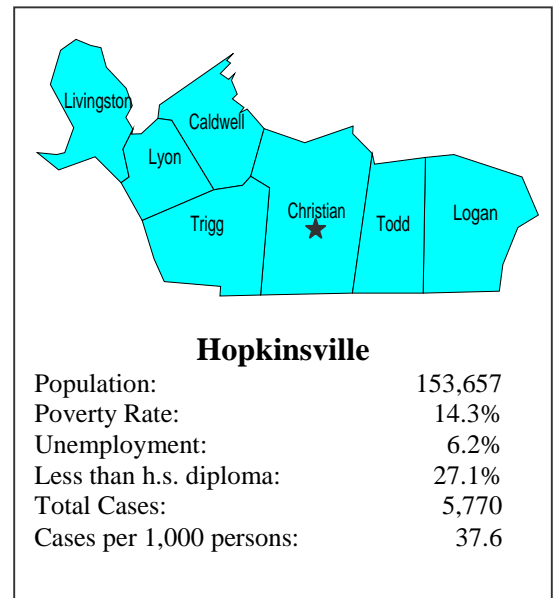
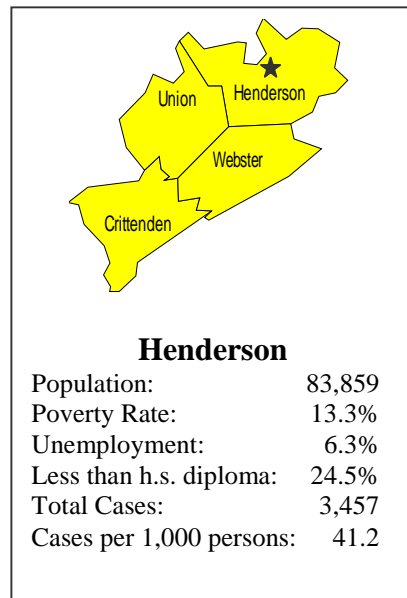
Harrison County (Cynthiana)

Population:	61,763
Poverty Rate:	12.2%
Unemployment:	7.0%
Less than h. s. diploma:	25.8%
Total Cases:	1,911
Cases per 1,000 persons:	30.9

Western Region



Population: 518,502
Poverty Rate: 14.1%
Unemployment: 6.5%
Less than high school diploma: 25.8%
Total Cases: 20,378
Cases per 1,000 persons: 39.3



SOURCE DATA AND COMPILATION METHODOLOGY

Department of Public Advocacy Defender Caseload Report- FY 04: Tab 4

- (1) **Population:** Population Division, U.S. Census Bureau; Table CO-EST2002-01-21 – Kentucky County Population Estimates: April 1, 2000 to July 1, 2002 (Release Date: April 17, 2003).
- (2) **Poverty:** U.S. Census Bureau, Housing and Household Economic Statistics Division, Small Area Estimates Branch. Table A99-21. "Estimated Number and Percent People of All Ages in Poverty by County: Kentucky 1999". Last revised: October 29, 2002.
- (3) **Unemployment:** U.S. Department of Labor: Bureau of Labor Statistics - "Labor Force Data by County, 2002 Annual Averages."
- (4) **Education:** Census 2000 Summary File 3 (SF 3) - Sample Data. Table P37: Sex by Educational Attainment for the Population 25 Years and Over

For each Trial Division Region or Field Office, the population totals for each relevant county were combined to achieve the total. Poverty, unemployment, and educational data were derived by weighting the statistics from each included county according to the county population. For example, a county with an unemployment rate of 10% and a population of 10,000 people would have twice as much influence on a field office or regional total than a county with the same unemployment rate but a population of only 5,000 people. This method more accurately represents the situation for the average person in that total area (particularly compared to what could be derived from a simple average of all the county rates). Put another way, 10% unemployment would hurt more people in Jefferson County (the most populous county) than it would in Robertson County (the least populous county), and all listed rates reflect this fact accordingly.

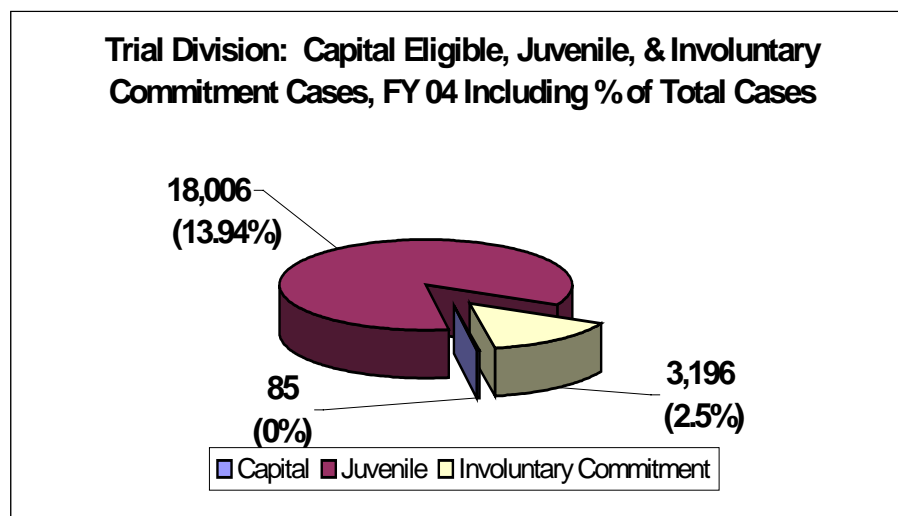
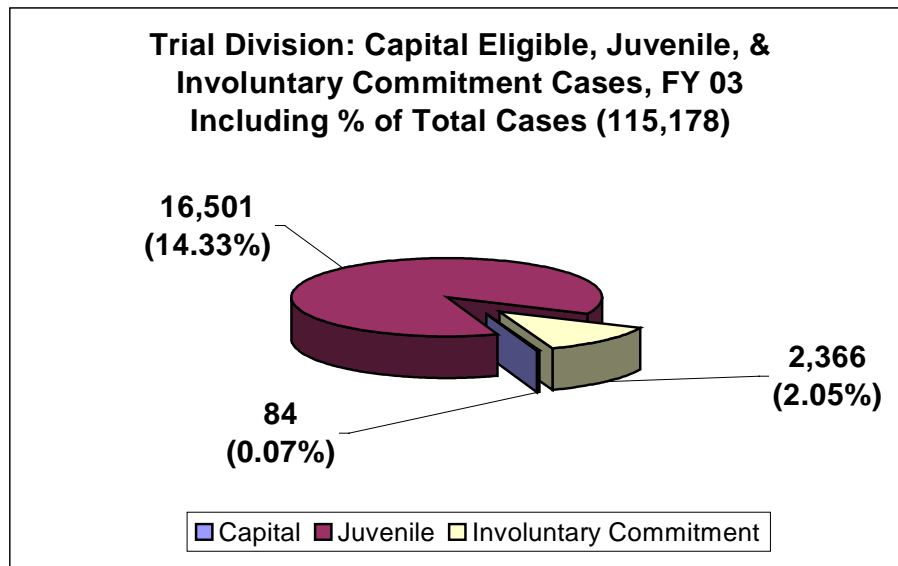
The Census Bureau table used for educational data broke the education groups down into much more specific categories than those listed here. A high school diploma was considered by DPA LOPS staff to be the best individual measurement. Thus, all population totals for educational attainment of less than a high school diploma were combined in each county to derive the percentage (compared to overall adult population 25 or above) used in these charts.

TAB 5

**DPA Trial Division Capital, Juvenile, and Involuntary
Commitment Cases Reported Opened FY 2004: Total Number
of Juvenile Cases opened by the Trial Division Grows by over
1,000 Cases**

<u>Cases Reported Opened in FY 04:</u>	
Capital Eligible:	85
Juvenile:	18,006
Involuntary Commitment:	3,196

	<u>Cases</u>	<u>% Trial Caseload</u>
FY 04	18,006	13.94%
FY 03:	16,501	14.33%
FY 02:	16,935	16.00%
FY 01:	16,631	16.88%
FY 00:	16,178	16.97%
FY 99:	18,708	19.16%
FY 98:	18,772	20.13%



FY 2004 Full Year: Capital Eligible, Juvenile, and Involuntary Commitment Cases

County Name	Capital Eligible	Juvenile	Involuntary Comm
ADAIR		50	
ALLEN	2	16	
ANDERSON		81	
BALLARD		19	
BARREN		12	
BATH		42	
BELL	2	108	
BOONE		419	32
BOURBON	1	65	
BOYD	2	153	
BOYLE		104	
BRACKEN		42	
BREATHITT		49	
BRECKINRIDGE	1	60	
BULLITT		158	
BUTLER		16	
CALDWELL		39	
CALLOWAY		187	
CAMPBELL	4	206	
CARLISLE		17	
CARROLL		70	
CARTER	4	145	
CASEY		37	
CHRISTIAN	1	389	717
CLARK	2	164	
CLAY	2	62	
CLINTON		14	

County Name	Capital Eligible	Juvenile	Involuntary Comm
CRITTENDEN		18	
CUMBERLAND		23	
DAVIESS		480	1
EDMONSON		10	
ELLIOTT		34	
ESTILL		43	
FAYETTE		1,091	548
FLEMING	10	25	
FLOYD		145	1
FRANKLIN	1	208	
FULTON		32	
GALLATIN		43	3
GARRARD	1	66	
GRANT		81	1
GRAVES	1	154	
GRAYSON	2	104	
GREEN		32	
GREENUP		140	
HANCOCK		22	
HARDIN	3	356	29
HARLAN		175	
HARRISON	2	75	
HART		32	
HENDERSON	3	395	
HENRY		42	
HICKMAN		4	
HOPKINS		219	1
JACKSON		27	
JEFFERSON		4,126	1,087

County Name	Capital Eligible	Juvenile	Involuntary Comm
JESSAMINE		198	1
JOHNSON		75	
KENTON	6	1,006	155
KNOTT		136	
KNOX		355	
LARUE		49	
LAUREL	3	380	
LAWRENCE	1	78	
LEE	1	18	
LESLIE		17	
LETCHER	1	341	1
LEWIS		40	
LINCOLN		56	
LIVINGSTON		27	
LOGAN	1	42	
LYON		16	
MCCRACKEN	2	595	
MCCREARY		86	
MCLEAN		17	
MADISON		189	
MAGOFFIN	1	58	
MARION		30	
MARSHALL	1	138	
MARTIN	2	29	
MASON		106	
MEADE		59	
MENIFEE		35	
MERCER		59	
METCALFE		23	

County Name	Capital Eligible	Juvenile	Involuntary Comm
MONROE		27	
MONTGOMERY		159	
MORGAN		47	
MUHLENBERG		83	
NELSON		117	3
NICHOLAS		30	
OHIO	1	35	
OLDHAM		80	
OWEN		47	
OWSLEY		10	
PENDLETON	1	61	
PERRY	1	234	616
PIKE	1	318	
POWELL		15	
PULASKI		97	
ROBERTSON		22	
ROCKCASTLE		20	
ROWAN		89	
RUSSELL		48	
SCOTT	2	99	
SHELBY		86	
SIMPSON	1	35	
SPENCER	2	19	
TAYLOR		105	
TODD		20	
TRIGG		40	
TRIMBLE		24	
UNION		39	
WARREN	2	455	

County Name	Capital Eligible	Juvenile	Involuntary Comm
WASHINGTON	1	10	
WAYNE	3	38	
WEBSTER		48	
WHITLEY	5	148	
WOLFE		41	
WOODFORD		76	
TOTALS	85	18,006	3,196

TAB 6

**ANNUAL REPORT
FY 2004
APPEALS BRANCH CASELOAD**

CASES ASSIGNED

(all cases assigned for briefing, does not include assignments
for review under KRS 31.110)

Court of Appeals

	Appeals Unit A	Appeals Unit B	Appeals Unit C	Of-Counsel	Total
Cases Assigned	28	53	66	26	173

Supreme Court

	Appeals Unit A	Appeals Unit B	Appeals Unit C	Of-Counsel	Total
Cases Assigned	49	28	31	2	110

Federal Habeas Cases

	Appeals Unit A	Appeals Unit B	Appeals Unit C	Total
Cases Assigned	1	0	0	1

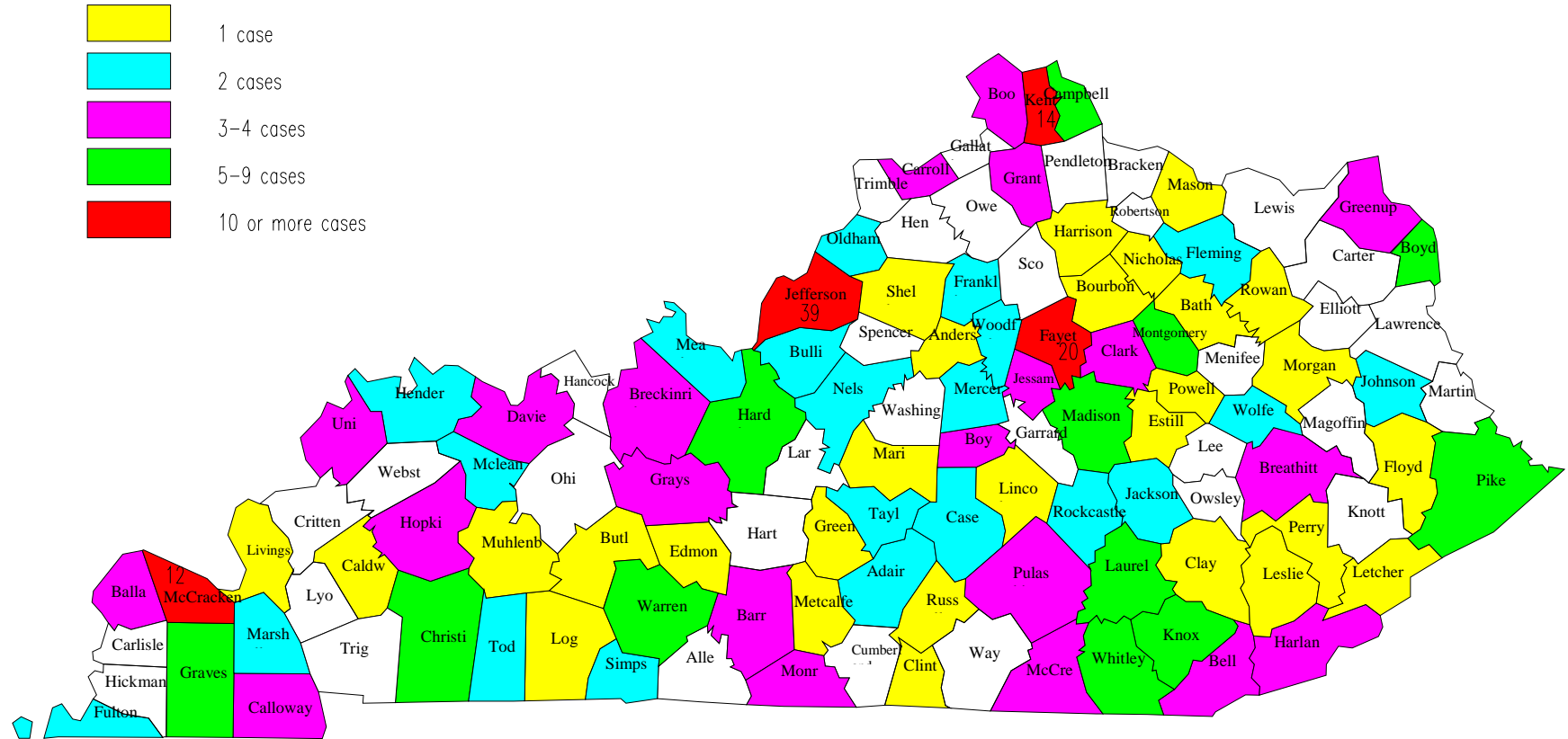
Louisville and Lexington Offices

	Louisville Office	Lexington Office	Total
Cases Assigned	76	44	120

TOTALS

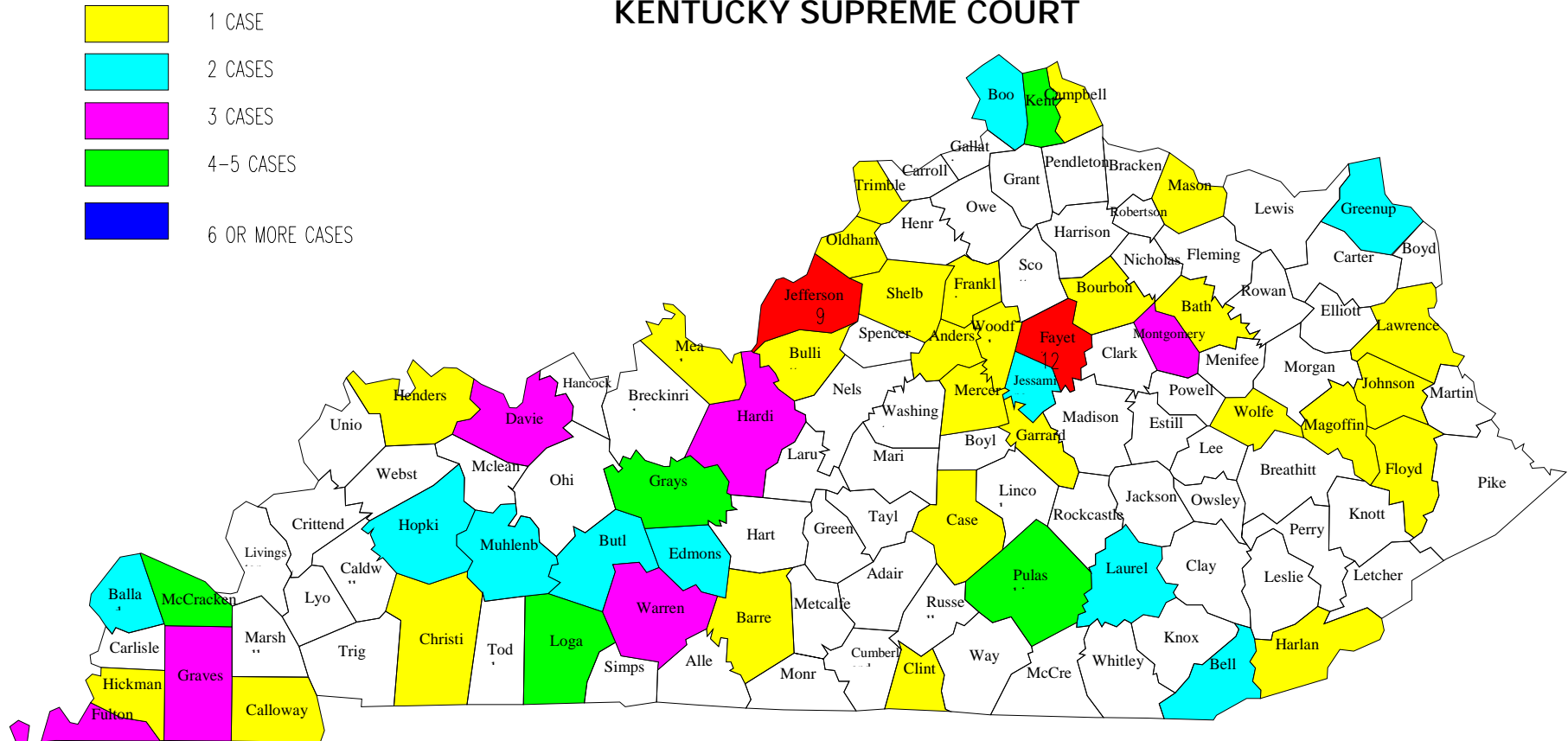
	Court of Appeals	Supreme Court	Federal Habeas Cases	Louisville & Lexington	TOTAL
Cases Assigned	173	110	1	120	404

Appeals Branch Cases Received By County FY-04 Court of Appeals



NOTE: This map includes information from both Post-Conviction and from Direct Appeals.

APPEALS BRANCH CASES RECEIVED BY COUNTY FY-04 KENTUCKY SUPREME COURT



NOTE: This does not include numbers from the Post-Conviction Branch. These are only Direct Appeals.

TAB 7

Juvenile Appeals Caseload

Cases Assigned, By Quarter, FY 2004

Type of Case		1 Q	2 Q	3 Q	4 Q	Total
Original Action	Circuit Court	1	0	0	1	2
	Court of Appeals	0	0	0	0	0
	Supreme Court	0	0	0	0	0
	Federal Court	0	0	0	0	0
Public Offender Appeal	Circuit Court	4	1	5	10	20
	Court of Appeals	1	0	0	1	2
	Supreme Court	0	1	0	1	2
	Federal Court	0	0	0	0	0
Family Court Appeal	Circuit Court	0	0	0	0	0
	Court of Appeals	1	0	3	1	5
	Supreme Court	0	0	0	0	0
	Federal Court	0	0	0	0	0
Youthful Offender Appeal	Circuit Court	0	0	0	0	0
	Court of Appeals	2	0	0	0	2
	Supreme Court	0	0	0	0	0
	Federal Court	0	0	0	0	0
Adult Appeal	Circuit Court	0	0	0	0	0
	Court of Appeals	1	1	3	2	7
	Supreme Court	1	2	2	2	7
	Federal Court	0	0	0	0	0
Total		11	5	13	18	47

Documents Filed and Hearings Attended, JPDB, FY 2004
Post Disposition

	1Q	2Q	3Q	4Q	Total
State Habeas Corpus Filed	0	0	0	0	0
State Habeas Corpus Hearings	0	0	0	0	0
11.42's Filed	1	4	3	0	8
11.42 Hearings	0	4	2	2	8
610.120 Motions Filed	7	3	15	10	35
610.120 Hearings	5	4	8	18	35
Motions for Belated Appeal Filed	0	0	0	0	0
Motions for Belated Appeal Hearings	0	0	0	0	0
Cases Resolved By Agreement, No Filing	2	0	1	2	5
YO Sentencing Motions Filed	10	3	2	4	19
ASP's Filed	8	4	6	6	24
Sentencing Hearings Held	8	5	4	6	23
Briefs Filed	0	2	2	1	5
Oral Arguments Held	0	1	4	4	9
Other Motions Filed	6	9	13	10	38
Other Non-SPR Hearings Held	0	4	0	3	7
Number of Claims Administratively Resolved	32	18	18	26	94
SPR Cases	1	0	0	0	1
Total	80	61	78	92	311

Juvenile Appeals

	1Q	2Q	3Q	4Q	Total
Original Actions	3	0	2	1	6
Motions Filed	25	19	23	31	98
Original Briefs Filed	9	6	6	14	35
Reply Briefs Filed	3	3	4	5	15
Hearings/Oral Arguments	8	8	5	6	27
Total	48	36	40	57	181

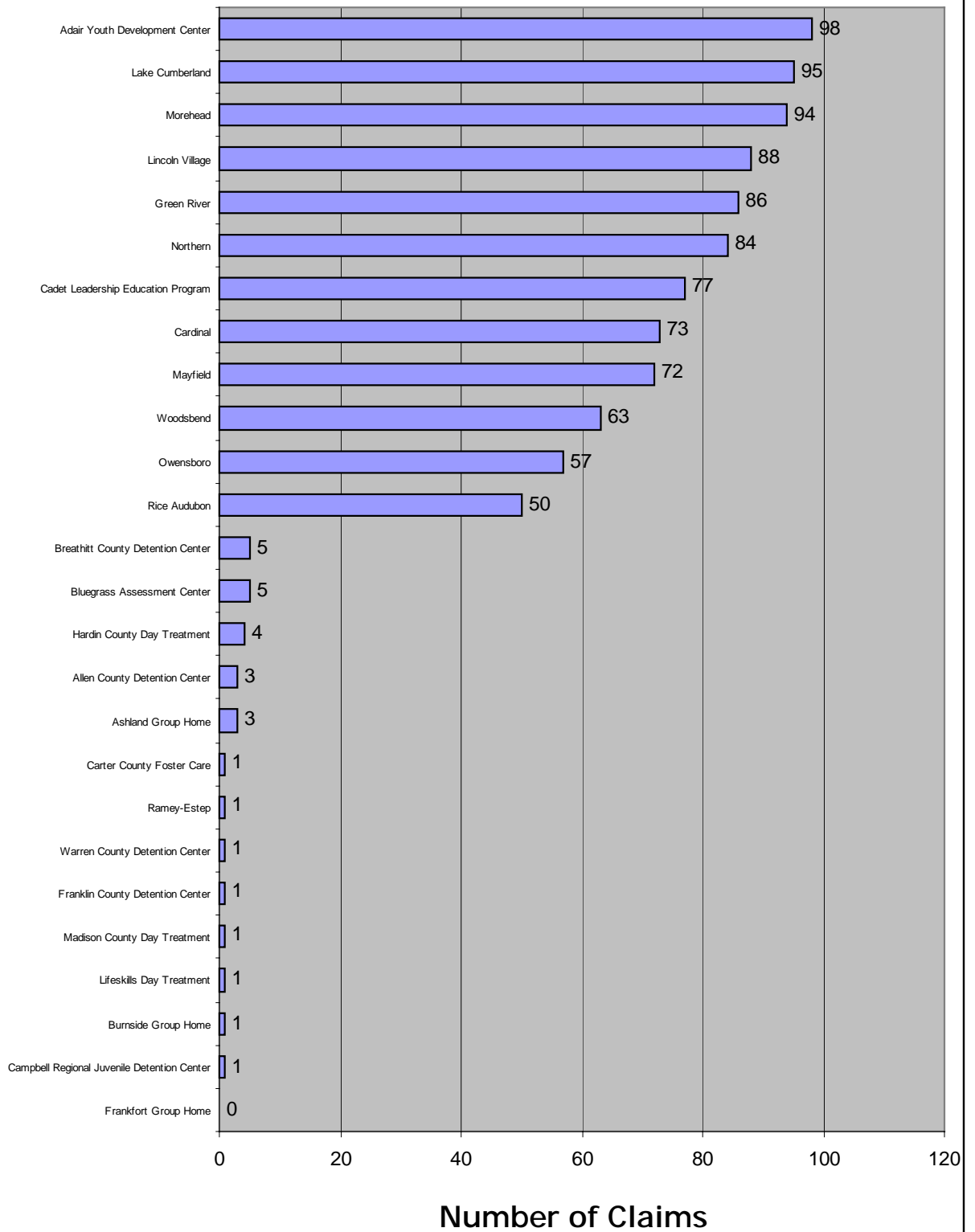
JAIBG

	1Q	2Q	3Q	4Q	Total
Attendance in Juvenile Court	8	3	5	6	22
Motions Filed	4	7	6	5	22
Original Briefs Filed	1	1	0	1	3
Reply Briefs Filed	0	0	0	0	0
Hearings, Oral Arguments	1	0	7	5	13
Meetings with Judges in Field Offices	4	3	9	4	20
Total	18	14	27	21	80

JPDB Open Claims -- FY 2004

Institution Name	Fact	Duration	Condition	TOTAL
Morehead	48	21	25	94
Northern	63	14	7	84
Woodsbend	54	7	2	63
Lake Cumberland	65	16	14	95
Rice Audubon	37	3	10	50
Cardinal	41	16	16	73
Lincoln Village	56	31	1	88
Owensboro	33	12	12	57
Mayfield	42	9	21	72
Green River	43	20	23	86
Bluegrass Assessment Center	5			5
Campbell Regional Juvenile Detention Center	1			1
Cadet Leadership Education Program	67	3	7	77
Ashland Group Home	1	2		3
Burnside Group Home		1		1
Frankfort Group Home				0
Hardin County Day Treatment	4			4
Lifeskills Day Treatment	1			1
Madison County Day Treatment	1			1
Breathitt County Detention Center	3	1	1	5
Franklin County Detention Center	1			1
Warren County Detention Center			1	1
Allen County Detention Center	1	2		3
Adair Youth Development Center	42	45	11	98
Ramey-Estep	1			1
Carter County Foster Care		1		1
TOTAL	610	204	151	965

Open Claims by Institution



TAB 8

Post Conviction Quarterly/YTD Report
Year To Date
July 1, 2003 - June 30, 2004

Cases	Qtr 1				Qtr 2				Qtr 3				Qtr 4				YTD Totals			
	Term of Yrs	WOP	WOP 25	total	Term of Yrs	WOP	WOP 25	total	Term of Yrs	WOP	WOP 25	total	Term of Yrs	WOP	WOP 25	total	Term of Yrs	WOP	WOP 25	total
RCR 11. 42- Court appointed	31		0	31	52		0	52	39		2	41	42		2	44	164	0	4	168
RCR 11. 42- Branch appointed				0				0				0	1			1	1	0	0	1
60.02- Court appointed	5			5	3			3	11			11	14			14	33	0	0	33
60.02- Branch appointed				0				0				0				0	0	0	0	0
Cir Ct.11.42 revwd w/ findings of no merit				0				0	2			2	2			2	4	0	0	4
State Habeas filed				0	1			1	4			4	0			0	5	0	0	5
Federal Habeas Opened				0	1			1	2			2	1			1	4	0	0	4
Ct of App. Cases Opened	3			3	3			3	7			7	12	1		13	25	1	0	26
Ky SCt Cases Opened	2			2	2			2	6			6	2			2	12	0	0	12
6th Circuit Cases Opened				0				0				0	0			0	0	0	0	0
Non Capital Clemency				0				0				0	0			0	0	0	0	0
31.110 App Reviews	18			18	27			27	36			36	49			49	130	0	0	130
COA's denied	2			2				0				0	0			0	2	0	0	2
KIP cases assigned	16			16				0				0	0			0	16	0	0	16
Totals	77	0	0	77	89	0	0	89	107	0	2	109	123	1	2	126	396	1	4	401
Pending Cases				0				0	324			324				0	324	0	0	324
Totals	77	0	0	77	89	0	0	89	431	0	2	433	123	1	2	126	461	2	4	467

Office	# Clients Served from Intake *				
	Q1	Q2	Q3	Q4	YTD
Frankfort	64	38	64	48	214
KSR	18	12	153	40	223
KSP	72	70	64	23	229
TOTALS	154	120	281	111	666

* NOTE: Clients served from intake represents work done under an ongoing project by the Post Conviction branch to address issues by incarcerated inmates. These issues are not counted as cases by the Post Trial Division.

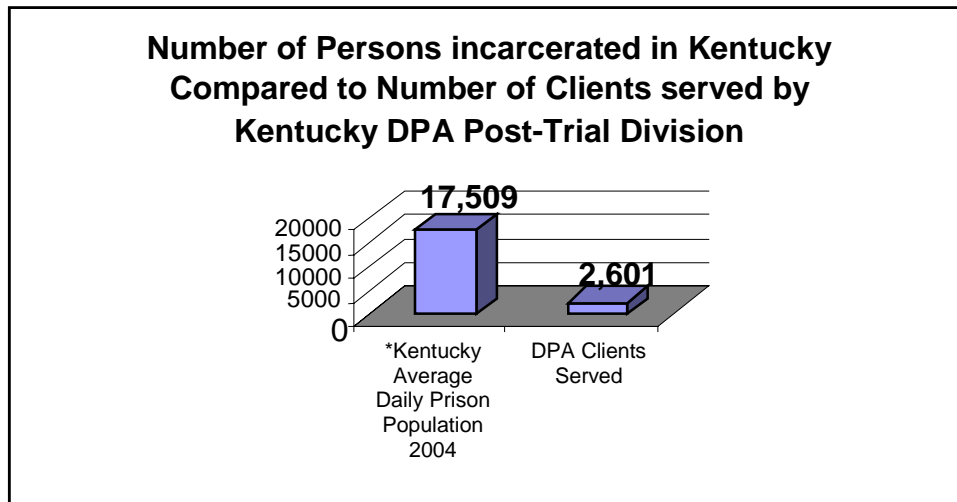
POST CONVICTION BRANCH
CAPITAL CASELOAD
Qtrly/ YTD report
*cases handled in-house and of-counsel

Cases	1st Quarter			2nd Quarter			3rd Quarter			4th Quarter			Year to Date		
	OPEN	PENDING	TOTAL	OPEN	PENDING	TOTAL	OPEN	PENDING	TOTAL	OPEN	PENDING	TOTAL	OPEN	PENDING	TOTAL
11.42	0	18	18		14	14	0	14	14	0	14	14	0	14	14
11.42 Appeal	0	4	4	3	2	5	0	5	5	0	4	4	3	5	8
60.02	0	1	1	0	1	1	1	1	2	0	1	1	0	4	4
60.02 Appeal	0	1	1	0	1	1	0	1	1	0	1	1	0	4	4
USSCT Cert	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Federal Habeas	0	4	4	2	4	6	1	6	7	1	7	8	3	8	11
Appeal to 6th Circuit	0	6	6	0	6	6	0	5	5	0	5	5	1	6	7
USSCT Cert	0	0	0	0	0	0	0	0	0	1	0	1	1	0	1
Clemency	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1
TOTALS	0	35	34	5	28	33	2	32	34	2	32	34	8	41	50

KENTUCKY INNOCENCE PROJECT
ANNUAL REPORT
FISCAL YEAR 2004

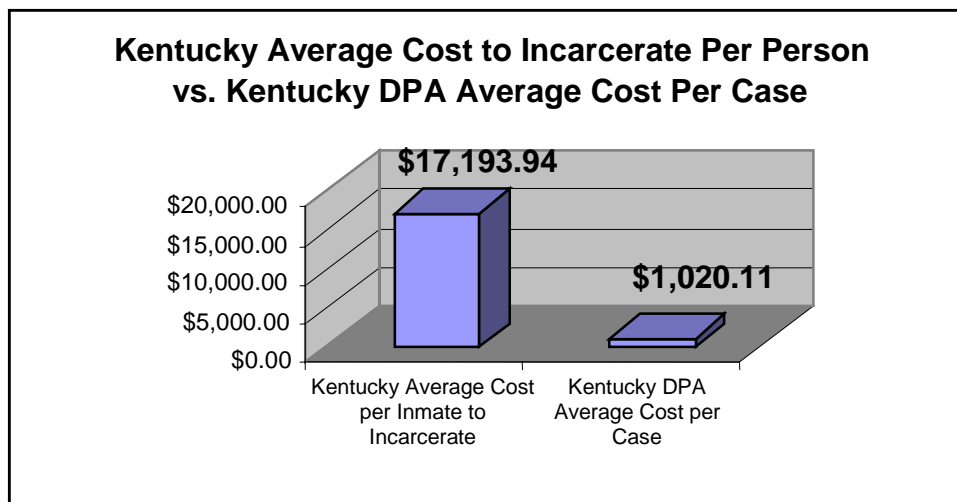
	Inmate	Family	Other	Total
Letters Received	89	7	5	101
Information Packets Mailed	39			39
Request for Assistance Received	76			76
Requests for Assistance Reviewed	57			57
Screening Questionnaires Mailed	31			31
Screening Questionnaires Received	23			23
Screening Questionnaires Reviewed	18			18
Referral	24			24
Denials	18			18
Cases Recommended for Assignment	16			16

Comparisons of Work from the Post-Trial Division with Kentucky Total Incarcerated Population and Kentucky Incarceration Costs



NOTE: The 2004 Average Daily Population is cited from a report on the Kentucky Department of Corrections website:

http://www.corrections.ky.gov/Facts_n_Figures/AvgDailyPop04.pdf



NOTE: The 2003 Average Cost Per Inmate to Incarcerate is cited from a report on the Kentucky Department of Corrections website:

http://www.corrections.ky.gov/Facts_n_Figures/cost0203.pdf.

The Funding Per Case of the Kentucky DPA Post-Trial Division includes cases from both the adult and juvenile branches.

The Kentucky Department of Public Advocacy does not discriminate in employment of individuals or provision of services with regard to race, color, religion, national origin, disability, sex, age, or sexual orientation.



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MEMORANDUM OF AGREEMENT BETWEEN THE JUSTICE AND PUBLIC SAFETY CABINET AND THE DEPARTMENT OF PUBLIC ADVOCACY

By Executive Order No. 2004-730, the Department of Public Advocacy (the Department) has been "attached for administrative purposes" to the Justice and Public Safety Cabinet (the Cabinet). Because the Cabinet and the Department want to address clearly any potential conflicts of interest and other problems that might arise with this transition to a new structure, it has been decided to enter into a formal agreement governing the manner in which conflicts of interest will be avoided.

1. The need for law enforcement agencies in the Justice Cabinet to have private discussions and information

There are several agencies now located in the Justice and Public Safety Cabinet that have as their primary mission the enforcement of the law. The Cabinet often has meetings at which commissioners and other officials of Cabinet agencies are present and at which policy matters are discussed. The Cabinet and Department agree that there will be times when the Public Advocate and other departmental officials will not be able to be a part of those meetings at which sensitive law enforcement issues will be discussed. The Cabinet Secretary or Deputy Secretary, or their designee will be responsible for identifying those meetings or discussion areas where the presence of the Department will not be allowed.

2. The need for an independent indigent defense function

The most crucial component of the system of indigent defense system is the guarantee of institutional independence irrespective of where the indigent defense function is placed in government. The *ABA Standards for Criminal Justice, Providing Defense Services* (3rd Ed. 1992), Standard 5-1.3(a) requires the system to protect the integrity of the attorney/client relationship. "The legal representation plan for a jurisdiction should be designed to guarantee the integrity of the relationship between lawyer and client...[t]he [public defender] plan and the lawyers serving under it should be free from political influence." "[I]t is the constitutional obligation of the State to respect the professional independence of the public defenders whom it engages." *Polk County v. Dodson*, 454 U.S. 312 (1981).

The *ABA Ten Principles of a Public Defense Delivery System* (February 2002) lists as Principle #1 the following: "The public defense function, including the selection, funding, and payment of defense counsel, is independent." The commentary to that principle elaborates as follows: "The public defense function should be independent from political influence and subject to judicial supervision only in the same manner and to the same extent as retained counsel. To safeguard independence and to promote efficiency and quality of services, a nonpartisan board should oversee defender, assigned

counsel, or contract systems. Removing oversight from the judiciary ensures judicial independence from undue political pressures and is an important means of furthering the independence of public defense. The selection of the chief defender and staff should be made on the basis of merit..."

Kentucky since 1972 has placed the responsibility for providing an independent indigent defense function in the Executive Branch. This function was placed in the Department of Public Advocacy with the passage of KRS Chapter 31. "We thus feel it appropriate to emphasize that DPA's duty to provide counsel is an executive agency function. It is an obligation which exists independently of and apart from DPA's responsibilities as advocate--and must be so kept." *Pillersdorf v. Department of Public Advocacy*, Ky., 890 S.W.2d 616 (1994).

There is no place in government where the indigent defense function could be placed without there being some level of conflict. The majority of states have placed this function within the Executive Branch. It is believed that while there are inherent conflicts of interest present with this function being placed in the Executive Branch, these conflicts can be managed. "[T]he law of lawyering must focus on identifying conflicts of interest in a realistic manner, and regulate them in such a way as to avoid infringing on the effective representation of clients, where elimination of the conflict is not practical." Hazard and Hodes, *The Law of Lawyering*, Section 10.1 (2003). See also *Kentucky Rules of Professional Conduct*, Rule 1.7(b). Regulating these potential conflicts is one of the purposes of this memorandum of agreement.

3. How independence of indigent defense will be assured.

Independence of the system of indigent defense in Kentucky will be guaranteed within the structure of Executive Order No. ~~2004-73~~ in the following ways:

- ◆ The Justice Cabinet affirms the importance and guarantees the independence of the indigent defense function in Kentucky's criminal justice system.
- ◆ The Department is denominated in the Executive Order as an "independent state agency attached for administrative purposes to the Justice and Public Safety Cabinet."
- ◆ The Public Advocate is not delineated in the Executive Order as being directly responsible to the Justice Cabinet Secretary, as are other Commissioners in the Cabinet. Rather, the Public Advocate is required to report on administrative matters to the Justice Cabinet Secretary similarly to that required of the Parole Board, another independent state agency attached to the Justice Cabinet for administrative purposes.
- ◆ The Public Advocacy Commission will continue as created in KRS 31.015. This Commission has as one of its statutory duties to "[a]ssist the Department of Public Advocacy in ensuring its independence through public education regarding the purposes of the public advocacy system." KRS 31.015(6)(d). The Public Advocacy Commission is also charged with the reviewing of "the performance of the public advocacy system" and the providing of "general supervision of the public advocate." KRS 31.015(6)(c). The *ABA Standards*

for *Criminal Justice, Providing Defense Services* (3rd Ed. 1992), Standard 5-1.3(b) offers a structural way to ensure the independence that protects the integrity of the attorney/client relationship, "An effective means of securing professional independence for defender organizations is to place responsibility for governance in a board of trustees."

- ◆ The Public Advocacy Commission is prohibited from interfering "with the discretion, judgment, or advocacy of employees of the Department of Public Advocacy in their handling of individual cases." KRS 31.015(7).
- ◆ Likewise, the Cabinet pledges not to interfere in any way with the discretion, judgment, or advocacy of employees of the Department of Public Advocacy in their handling of individual cases.
- ◆ The Public Advocate is the appointing authority for the Department of Public Advocacy. It is important for the Public Advocate to ensure that an adequate process exist for both the selection and appropriate level of supervision for all staff within the Department of Public Advocacy. The Public Advocate is charged with determining the necessary personnel for the Department. KRS 31.020(1). The Public Advocate is charged with appointing assistant public advocates, secretarial, clerical, and other personnel within the merit system. KRS 31.020(4)(5). The Public Advocate is also charged with appointing a nonmerit deputy public advocate. KRS 31.020(3). The Public Advocacy Commission is charged with assisting the Public Advocate "in drawing up procedures for the selection of his staff." KRS 31.015(6)(b). The Cabinet recognizes that the Department has a professional obligation under Rule 5.1 of the *Kentucky Rules of Professional Conduct* to ensure that departmental lawyers conform to the Rules. The Cabinet will not interfere with the Department's efforts to ensure compliance with Rule 5.1. The Public Advocate will report to the Cabinet any proposed discipline of a departmental employee and receive advice from the Cabinet regarding the appropriateness of the proposed discipline.
- ◆ The Department will maintain its own General Counsel. The General Counsel will represent the Department on all agency legal matters. The Department will defend itself before the state Personnel Board and state Board of Claims.
- ◆ The Cabinet understands and respects the attorney client relationship between the employees of the Department and their clients. See Generally Rule 1.6 of the *Kentucky Rules of Professional Conduct*. The Cabinet will endeavor to maintain the confidentiality of client communications as contained in the offices of the Department, or the computers used by employees of the Department. The Cabinet will not breach this confidentiality in the exercise of administrative oversight of the Department. The Cabinet will not seek client information from the Department, nor will it use any client information with which it comes into contact.
- ◆ The Department will have control over its information technology equipment and use. The Department will work with the Commonwealth Office of Technology to ensure that the Department's information technology is in conformity with the requirements of state government. The Cabinet and the Department will take all necessary steps to ensure that reasonable procedures

are in place to guarantee client confidentiality. See *ABA Formal Opinion 95-398* (1995) and Rules 1.6, 1.9 and 5.3 of the *Kentucky Rules of Professional Conduct*. The Department will take necessary steps to ensure that reporting responsibilities will be accomplished without revealing client confidentiality, including data that can be traced to a specific client. The Cabinet and the Department agree that there can be no access by the Cabinet, by computer or otherwise, to confidential matters that can be traced to any individual client of an attorney with the Department.

- ◆ The Cabinet will not require the use of a letterhead that communicates to the Department's clients that they are part of the Cabinet. Rather, the Department will be allowed to use a suitable departmental letterhead that ensures clients that they are represented by a lawyer working for an independent state agency. See generally KBA Ethics Opinion KBA E-417.

4. Administrative Relationship

The Department is placed within the Cabinet "for administrative purposes." The Public Advocate is the "chief administrator of the Department for Public Advocacy." KRS 31.020(2). The Department and Cabinet will work together on ensuring a transparent, efficient, and accountable administrative function in the Department.

The Public Advocate is responsible for reporting to the Cabinet. This includes but is not limited to the following:

- ◆ Reporting on pro cards.
- ◆ Reporting on discipline imposed.
- ◆ Reporting on monthly budget summary.

5. Potential for Lawsuits

In the past, the Department has been involved in a few lawsuits filed on behalf of indigent defense clients filed against agencies of the Justice and Public Safety Cabinet as well as other agencies in state government. All of these lawsuits were filed on behalf of clients, and were authorized by the Department's enabling statutes contained in KRS Chapter 31. These lawsuits can occur in a number of different ways:

- ◆ Lawsuits filed on behalf of persons with mental illness or mental retardation by attorneys with the Protection and Advocacy Division against state agencies and other providers of services. KRS 31.010(2).
- ◆ Lawsuits filed as part of post-conviction proceedings. KRS 31.110(2)(c).
- ◆ Lawsuits filed by attorneys with the Juvenile Post-Dispositional Branch related to issues involving violations of federal or state statutory rights or constitutional rights. KRS 31.110(4).
- ◆ Lawsuits filed in federal court on matters arising out of or related to actions pending or recently pending in state court. KRS 31.210. These include post-conviction actions initiated by the filing of a petition for a writ of habeas

corpus. These may also include Section 1983 actions in capital post-conviction cases in challenging procedures used by the Commonwealth.

- ◆ Lawsuits filed to secure special education remedies for juvenile clients where such remedies are pursued to create less restrict alternatives or lead the court system to divert the case into a civil forum.
- ◆ Civil remedies in non-support cases.
- ◆ Lawsuits to enforce the legal right of prisoners and jail inmates. See, for example, *Campbell County v. Kentucky Corrections Cabinet*, Ky., 762 S.W. 2d 6 (1988); *Lexington-Fayette Urban County Detention Center v. Crockett*, Ky., 786 S.W. 2d 869 (1990).
- ◆ It is departmental policy that when a DPA attorney files suit in state or federal court against another state agency the DPA must give notice to the Public Advocate and the Justice and Public Safety Cabinet Secretary. Notice includes a copy of the demand letter on the day the demand letter is sent, unless there are exceptional circumstances that exist. Notice also consists of notice that negotiations have broken down and that litigation will be pursued. See DPA Policy 13.03.

“[A]n indispensable element of the effective performance of [a public defender’s] responsibilities is the ability to act independently of the Government and to oppose it in adversary litigation.” *Ferri v. Ackerman*, 444 U.S. 193 (1979). The Cabinet and the Department agree as follows regarding these lawsuits:

- ◆ The Cabinet agrees that lawsuits can be expected to be filed by attorneys with the Department on behalf of clients against agencies within the Cabinet and other entities.
- ◆ The Department agrees that the lawsuits that will be filed will be authorized within KRS Chapter 31.
- ◆ The Cabinet will not interfere with the right of the Department’s clients to seek relief through the filing of a lawsuit.
- ◆ If a civil suit is brought by the Department rather than on behalf of individual clients or classes of clients, those lawsuits shall be approved by the Public Advocate prior to their filing. DPA Policy 3.19.

6. The Protection and Advocacy Division

The Protection and Advocacy Division (P&A) is largely a creature of federal law. It provides civil legal advocacy services to persons with disabilities in matters arising out of their disabling condition. P&A derives its authority to act and funding largely from two major federal laws: the Developmental Disabilities Assistance and Bill of Rights Act, (DD ACT) 42 U.S.C. § 15000 et seq.; and the Protection and Advocacy for Individuals with Mental Illness Act, (PAIMI) 42 U.S.C. § 10805 et seq. Each of these statutes grants the P&A Division powers and authority as well as provides a funding stream through accompanying formula grants.

As a condition of the Commonwealth’s continuing receipt of a substantial funding allotment under Part B of the DD Act, 42 U.S.C. §§ 15021 et seq., the Commonwealth made written

assurances to the federal Department for Health and Human Services that P&A shall have the authority to perform all the functions anticipated by Congress as essential to carrying out its mandate. Under the doctrine of pre-emption and the provisions of the supremacy clause of the U.S. Constitution, the Protection and Advocacy Division has authority and power to perform its functions despite state statutes or rules that may be contrary.

In carrying out its mission, P&A has federal statutory authority to:

- ◆ Pursue legal, administrative, and other appropriate remedies or approaches, 42 U.S.C. §15043(a)(2)(A)(i)
- ◆ Investigate incidents of abuse and neglect of individuals with disabilities in state facilities. 42 U.S.C. §15043(a)(2)(B)
- ◆ Be independent of any agency that provides treatment, services, or habilitation to individuals with developmental disabilities; 42 U.S.C. §15043(a)(2)(G).
- ◆ Be independent of any agency in the State that provides treatment or services (other than advocacy services) to individuals with mental illness 42 U.S.C. §10805(a)(2).
- ◆ Hire and maintain staff without being subjected to state hiring freezes or other state policies that would prevent the P&A from carrying out its functions funded with federal funds. 42 U.S.C. §15043(a)(2)(K).
- ◆ Provide education and information to policymakers. 42 U.S.C. §15043(a)(2)(L).

In carrying out its function P&A will on occasion, in the course of client representation, bring a legal action against the state, an agency of the state or an instrumentality of the state. P&A is specifically authorized under federal law to take such action. See 42 U.S.C. §15044(b)(1). When such actions are filed, P&A observes the same protocol concerning notice to the Public Advocate and the Cabinet Secretary as is set out in the sections concerning indigent defense services.

7. Budget Matters

The Department is part of the Cabinet administrative structure. The Department's budget request will be provided to the Cabinet in the fall prior to the budget session of the General Assembly on a date and format to be required by the Cabinet. The Department recognizes that the budget presented by the Cabinet to the Governor will involve the making of decisions requiring balancing of needs and tradeoffs between the various agencies of the Cabinet and available resources. The Cabinet recognizes that the Department may have to demonstrate to members of the General Assembly what the budgetary needs of indigent defense are. The Cabinet also recognizes that the Public Advocacy Commission has an obligation to "provide support for budgetary requests to the General Assembly." KRS 31.015(7).

8. The Department's Public Policy Role

KRS 31.030(4), (7), (8), (9), and (13) all relate to departmental functions beyond the representation of individual clients. These refer to the public policy role of the Department. The Department plays a vital role in the public policy making arena,

including the legislative process, often being asked to comment on proposed legislation, to propose legislation, to serve on task forces and commissions, and to otherwise lend its expertise on issues relating to public defense and the rights of individuals with disabilities. On occasion, departmental publications such as *The Advocate* and *The Legislative Update* contain matters of public policy. When the Department plays this institutional role, it results in multiple perspectives on issues being offered to legislators and other policy makers, resulting in more informed and superior decision-making by legislators. The Cabinet and Department agree as follows regarding the Department's public policy role:

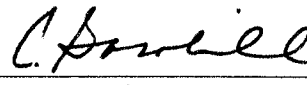
- ◆ The Cabinet agrees that the Department plays an institutional role in the public policy arena.
- ◆ The Department agrees to keep the Cabinet informed on the public policy positions taken by the Department.
- ◆ No Department employee will take a public policy position regarding the Department without the prior approval of either the Public Advocate or his or her designee.
- ◆ The Cabinet and the Department recognize that DPA lawyers have a legal and ethical right to speak independently within the bounds of the Kentucky Rules of Professional Conduct on behalf of their clients to the media.

9. The need to establish a good working relationship.

Department of Public Advocacy and Justice and Public Safety Cabinet employees, attorneys, supervisors, managers, and directors will be working together on many issues. Sometimes the work will be done on a collaborative basis. Sometimes the work will be adversarial. At all times efforts will be made to establish a good, civil, and professional working relationship.



Lt. Governor Steve Pence Date
Secretary
Justice and Public Safety Cabinet

 7/2/04

Cleve Gambill Date
Deputy Secretary
Justice and Public Safety Cabinet

 6/25/04

Joe Whittle Date
Executive Director
Office of Legal Services
Justice and Public Safety Cabinet

 6/25/04

Erwin W. Lewis Date
Public Advocate
Department of Public Advocacy

**ADDENDUM TO THE MEMORANDUM OF AGREEMENT
BETWEEN THE JUSTICE AND PUBLIC SAFETY CABINET AND
THE DEPARTMENT OF PUBLIC ADVOCACY**

This addendum to an existing Memorandum of Agreement (MOA) between the Justice and Public Safety Cabinet and the Department of Public Advocacy shall operate in conjunction with the previous MOA.

The purpose of this addendum is to clarify and reconcile the original MOA with Executive Order No. 2004-730, by addressing statements in the first MOA that were attributed to the Executive Order, which, however, did not appear in the signed version of the Executive Order.

It is the express agreement between the Department of Public Advocacy (DPA) and the Justice and Public Safety Cabinet (Justice Cabinet) that DPA is an independent state agency attached to the Justice Cabinet for administrative purposes. The Justice Cabinet recognizes that DPA must operate as an independent state agency, as stated in KRS Chapter 31. Neither this Executive Order nor MOA shall void or otherwise alter the intent or language of KRS 31.

Executive Order No. 2004-730 does not require DPA to report to the Justice Cabinet. However, the Justice Cabinet and DPA agree that there is a need for administrative information to be provided to the Cabinet by DPA. DPA agrees to file reports with the Justice Cabinet Secretary, or his designee, on its administrative actions, including budget requests, past personnel disciplinary actions and financial expenditures. These reports shall be made in a manner that keeps the Justice Cabinet sufficiently apprised of pending actions and future requests. Filing these necessary reports shall in no way be deemed to reduce DPA's independence, rather this reporting is necessary to allow the Justice Cabinet to perform its fiscal responsibilities and other obligations owed to the citizens of the Commonwealth.

DPA agrees to continue its practice of giving advanced notice to the Cabinet Secretary of occasions in which a representative of DPA will testify before a legislative or other policy creating body. Such notice will be provided in a manner that will foster quick communication, but will not disturb DPA's independence as expressed in KRS 31.

When asked by the Public Advocate, the Justice Cabinet's Office of Investigations may be used to investigate allegations of employee misconduct.

The Justice Cabinet and DPA also agree to encourage discussing disagreements with other Justice Cabinet agencies with a goal of resolving disputes between these entities (and the parties so represented) in advance of filing a lawsuit where possible. This agreement shall not effect DPA's independence to prosecute a lawsuit and also recognizes the need for the court system to resolve disputes.

St B. Pence

Lt. Governor Steve Pence Date
Secretary
Justice and Public Safety Cabinet

C. Gambill 8/30/04

Cleve Gambill Date
Deputy Secretary
Justice and Public Safety Cabinet

Joe Whittle

Joe Whittle Date
Executive Director
Office of Legal Services
Justice and Public Safety Cabinet

Erwin W. Lewis 8/27/04

Erwin W. Lewis Date
Public Advocate
Department of Public Advocacy

DPA Launches Justice Jeopardized Campaign to reduce caseloads of public defenders in Kentucky

Forty years ago, in the landmark case of *Gideon v. Wainwright*, the United States Supreme Court declared “any person haled into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him.” As the justices said, “This seems an obvious truth.” Yet decades later has the promise of *Gideon* been fulfilled in Kentucky?

The Kentucky Department of Public Advocacy (DPA) represents over 130,000 citizens each year in Kentucky's trial and appellate courts. The staff of the Kentucky's statewide defender program protects what we value most - our liberty and our lives. Every day in Kentucky's 120 counties public defenders stand up for citizens who are accused of having committed a crime. Defenders insure the criminal justice process is fair, the result reached by jurors and judges is reliable, and that individual liberty is protected.

DPA's most recent annual report of the numbers of cases and clients represented by public defenders during the last year demonstrates that the quality of justice being provided by Kentucky's public defenders is compromised by the continued significant increase in caseload. Findings of the most recent caseload report reveal:

- Overall cases rose to 131,094, up from 117,132 the previous year.
- Cases at the trial level increased by 12% during FY04.
- Cases have been steadily rising over the past four years. In FY2000, DPA had 97,818 cases. In FY 01, DPA had 101,847 cases.

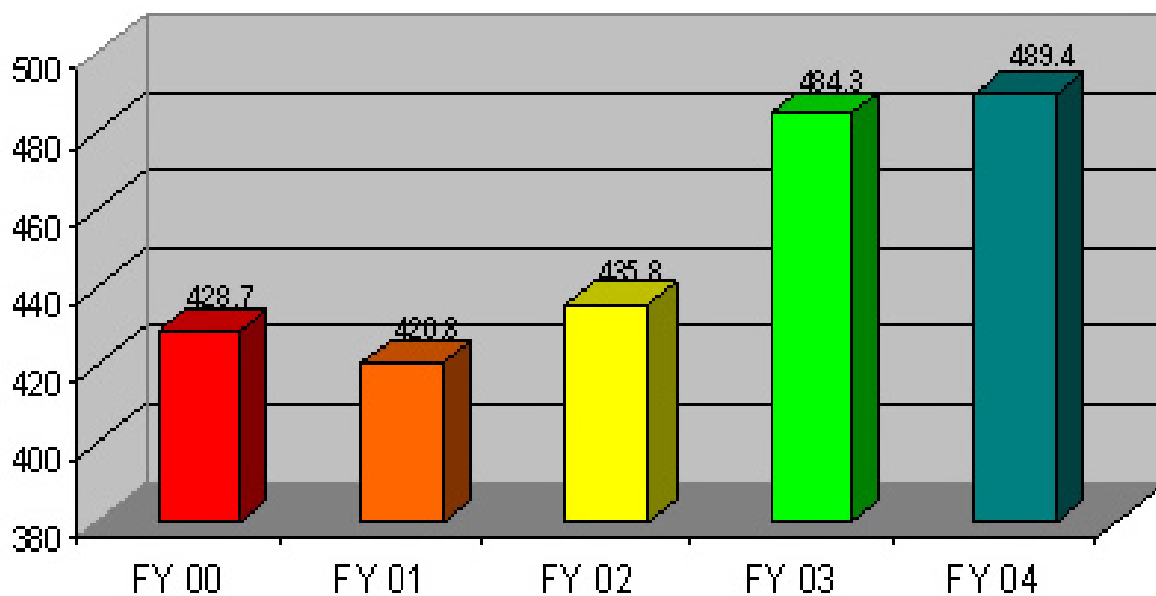
This increased to 108,078 in FY02, and again to 117,132 in FY03.

- Public defenders began FY04 with an average caseload of 484. DPA used additional revenue during FY04 to hire 10 new caseload reduction lawyers and placed them in offices with the heaviest caseloads.
- Public defenders ended FY04 averaging 489 new cases annually. Despite the hiring of the new caseload reduction lawyers in FY04, the average caseload has risen by 1.1%. DPA's average caseload for its trial attorneys is 185% of the recognized National Advisory Commission's national standards.
- In its 1999 report, the *Blue Ribbon Group on Improving Indigent Defense for the 21st Century* recommended that until funding was available to meet national standards, rural Kentucky public defender offices should carry no more than 350 cases per lawyer, while urban offices should carry no more than 450 cases per lawyer. DPA is now further away from meeting this interim goal.
- Sixteen offices had average caseloads in excess of 500 new cases per lawyer.
- In the 1999 *Blue Ribbon Group Report*, it was found that the Department of Public Advocacy was near the bottom among all the states in per case funding. In FY 1998, the funding per case was at \$187. In FY03, the funding per case was at \$238. In FY04, per case funding declined 4.2% to \$228.
- DPA represented 18,006 children and youth in FY04.
- Public defenders are now required to represent clients in drug court and family court in addition to circuit, district, and juvenile court. Defenders have received no new funding for their responsibilities in drug and family court.

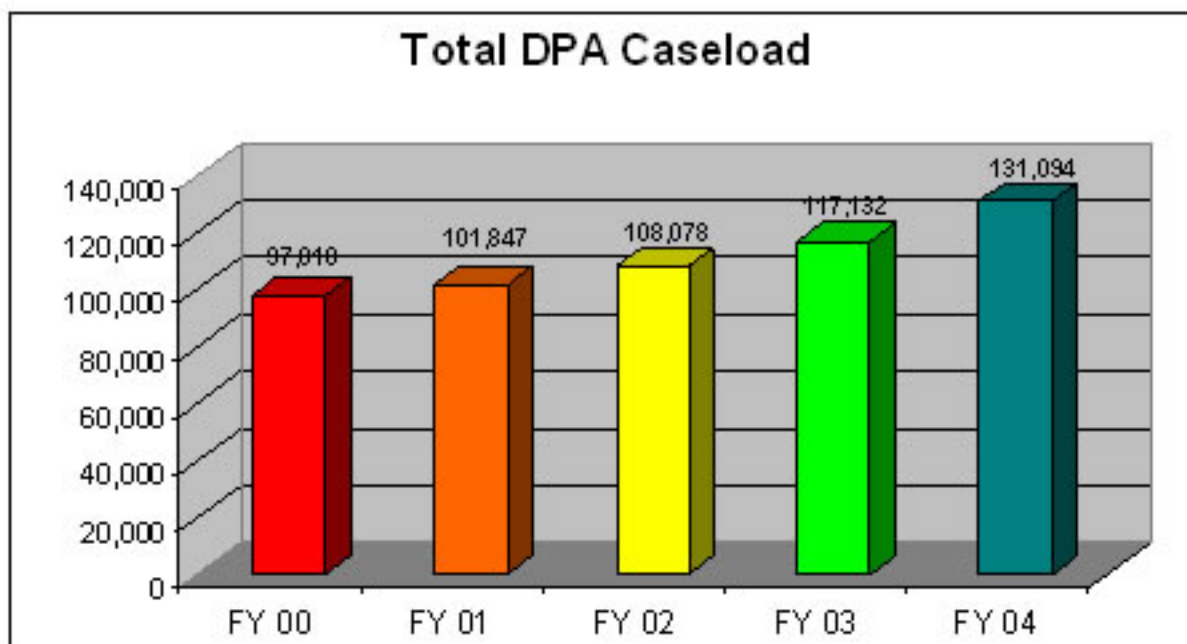
In light of the Department's most recent data, Public Advocate Ernie Lewis

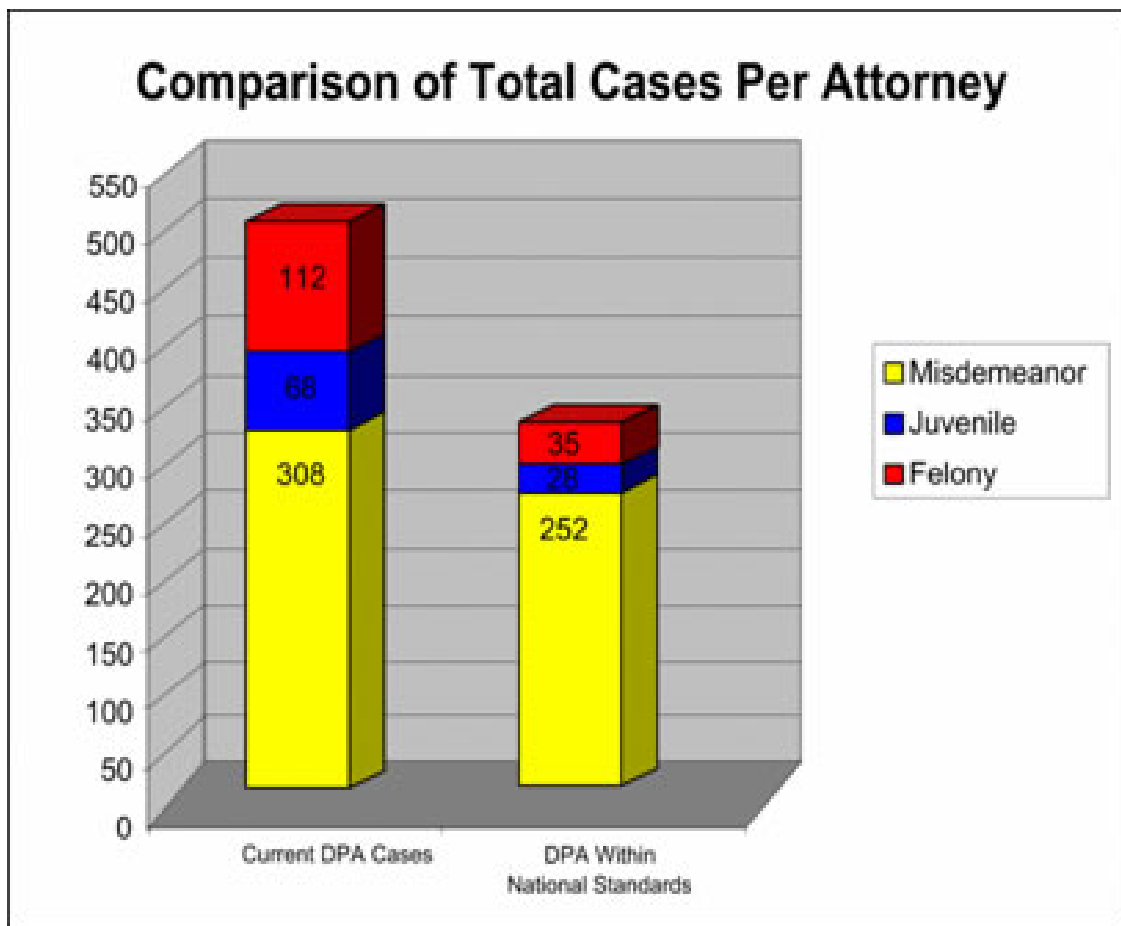
comments, “Is the quality of justice compromised when public defenders in Kentucky are being called upon to represent Kentucky accused citizens at 185% of nationally recognized standards? We are approaching that point when our public defenders are simply unable to perform their essential task of defending the accused due to these crushing caseloads. The people of the Commonwealth want to believe that the quality of justice provided an accused does not depend upon the money available to pay a lawyer. These caseloads threaten that fundamental belief.”

Cases per DPA Attorney



Total DPA Caseload

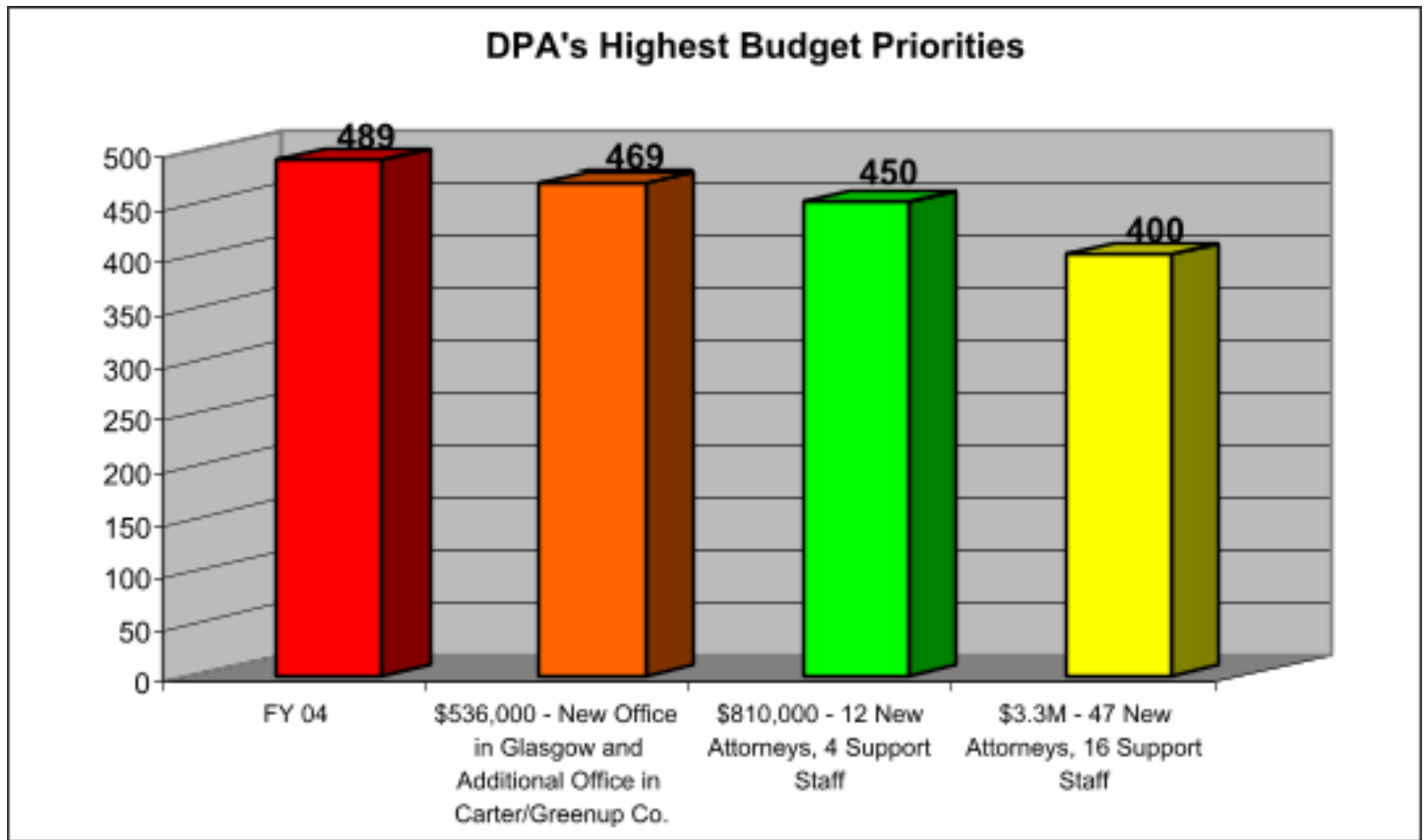




Blue Ribbon Group Report: 1999

Finding #5: The Department of Public Advocacy per attorney caseload far exceeds national caseload standards.”

Recommendation #6: “Full-time trial staff should be increased to bring caseloads per attorney closer to the national standards. The figure should be no more than 350 in rural areas and 450 in urban areas.”



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KY Office of Public Advocacy

The Public Advocacy Commission

The 12 person Commission consists of a representative from each of the law schools, and members appointed by the Kentucky Supreme Court and the Governor. The Commission assists the Department in insuring its independence through public education about the purposes of the public advocacy system, and has budgetary and certain supervision responsibilities. The Commission Chair since 1993 has been **Robert C. Ewald** of *Wyatt, Tarrant & Combs*, Louisville, Kentucky. Previous Commission chairs have been **William R. Jones**, Professor of Chase Law School and formerly its Dean; **Anthony M. Wilhoit**, former Kentucky Court of Appeals Chief Judge and now Executive Director of the Legislative Ethics Commission; **Max Smith**, Frankfort criminal defense attorney; and **Paula M. Raines**, Lexington attorney and psychologist.

Full Legal Assistance: This We Shall Have!

On October 17, 1972 in Louisville, Governor Wendell Ford announced the appointment of Anthony M. Wilhoit as the first Public Advocate saying, "There can be no civilized enforcement of criminal law without full legal assistance to the accused. This we shall have!"

Kentucky's Public Advocates:

1. **Anthony M. Wilhoit (1972-1975)**
2. **Jack Emory Farley (1975-1983)**
3. **Paul F. Isaacs (1983-1991)**
4. **Ray Corns (1992)**
5. **Allison Connelly (1992-1996)**
6. **Erwin W. Lewis (1996-present)**

The Faces of DPA: Trial, Post-Trial, Protection & Advocacy, Law Operations and Education



Trial Division

Vacant

The Trial Division provides service to indigent individuals accused of crime and facing a hearing or a trial. The Division is led by the Trial Division Director, vacant, who supervises six managers, including the Capital Trial Branch Manager, and the Northern, Bluegrass, Eastern, Central, Western and Jefferson Regions. The trial public defenders, as well as highly skilled investigators, alternative sentencing workers, clerks, paralegals, social workers and secretaries who support the effort in 26 full-time trial offices covering one or more counties. Each of the full-time offices contract with attorneys in private practice to provide conflict representation. The Frankfort office has a statewide Capital Trial Branch whose experienced staff provide representation to persons facing the death penalty on the most difficult capital cases across the state. The trial offices by region are headquartered in the following cities italicized are planned future offices:

Northern: LaGrange, Covington, Frankfort, Maysville, Ashland, *Burlington, Cynthiana, Greenup*;

Bluegrass: Richmond, Somerset, Stanford, Stanton and Lexington;

Western: Paducah, Hopkinsville, Madisonville, Henderson and Murray;

Eastern: Paintsville, Morehead, Hazard, Pikeville, London and Pineville;

Central: Bowling Green, Columbia, Elizabethtown, Owensboro, *Shepardsville, Glasgow*;

Jefferson: Louisville.

Current and Planned Office Map



Post-Trial Division

[Rebecca DiLoreto](#)

The Post-Trial Division, led by Rebecca Ballard DiLoreto, has five branches providing legal representation in state and federal court to persons convicted/or incarcerated in Kentucky: The Post-Conviction Branch represents felons who are incarcerated in Kentucky prisons and are challenging some aspect of their conviction. Included within this branch is the Kentucky Innocence Project, assisting those in prison who claim actual innocence and who have new evidence supporting their innocence. The Appellate Branch represents persons on their initial appeal to Kentucky appellate courts. The Juvenile Post-Dispositional Branch represents juveniles on appeal or those who are contesting the fact, duration or condition of confinement in residential treatment facilities. The Capital Post-Conviction Branch represents persons on death row challenging their sentence following a denial of their initial appeal. The Capital Appellate Branch represents persons sentenced to death on their initial appeal to the Kentucky Supreme Court.

**Kentucky Public Defender Cases Decided on the
Merits by the United States Supreme Court**

Taylor v. Kentucky, 98 S. Ct. 1930 (1978)	James v. Kentucky, 104 S. Ct. 1830 (1984)
Bordenkircher v. Hayes, 99 S. Ct. 663 (1978)	Evitts v. Lucy, 105 S. Ct. 830 (1985)
Kentucky v. Whorton, 99 S. Ct. 2088 (1979)	Crane v. Kentucky, 106 S. Ct. 2142 (1986)
Pilon v. Bordenkircher, 100 S.Ct. 7 (1979)	Batson v. Kentucky, 106 S. Ct. 1712 (1986)
Rawlings v. Kentucky, 100 S.Ct. 2256 (1980)	Stincer v. Kentucky, 107 S. Ct. 2658 (1987)
Carter v. Kentucky, 101 S.Ct. 1112 (1981)	Griffith v. Kentucky, 107 S. Ct. 708 (1987)
Watkins v. Sowders, 101 S. Ct. 654 (1981)	Buchanan v. Kentucky, 107 S. Ct. 2906 (1987)
Fletcher v. Weir, 102 S. Ct. 1309 (1982)	Olden v. Kentucky, 109 S. Ct. 480 (1988)
Stanford v. Kentucky, 109 S. Ct. 2969 (1989)	



Protection and Advocacy Division

[Maureen Fitzgerald](#)

The Protection and Advocacy (P&A) Division, led by Maureen Fitzgerald, is a federally funded independent Division within DPA which protects and promotes the rights of Kentuckians with disabilities through legally based individual and

systematic advocacy and education. P & A operates four programs for: 1) persons with developmental disabilities; 2) individuals with mental illness; 3) individual rights; and 4) assistive technology.



Law Operations Division

[Al G. Adams](#)

The Law Operations Division, led by Al G. Adams, provides administrative support for the Kentucky Public Advocacy statewide system in order to fulfill the statutory mandate of KRS Chapter 31 of high quality representation of clients. Those duties include providing: caseload data and analysis, fiscal information, professional work environment, technology, recruitment of high quality staff, personnel actions, criminal justice issue analysis, grant application and management, payroll and health benefits, and library information services. The Division works to help defender staff operate efficiently and effectively.



Education and Development

[Ed Monahan](#)

[Jeff Sherr](#)

DPA provides a wealth of education, with a special emphasis on education of its attorneys. Newly hired attorneys are offered practical education over their first 9 months in district court and DUI practice, juvenile litigation, circuit court

representation, working with mental health experts and presenting persuasive mental health defenses, and understanding ethical obligations and ethical boundaries. New attorneys learn how to effectively practice law and successfully represent clients. New and experienced attorneys are provided a week long intensive litigation practice institute that focuses on the art of making critical judgments, developing compelling theories of the case, and persuasively communicating to the decision-makers the client's story. The Institute is recognized nationally for developing criminal litigation specialists.

Each year, DPA conducts a two-day Annual Conference focusing on the areas defenders need to stay current on, including litigation skills, capital law and practice, and defending persons charged with sex offenses. It is the largest yearly gathering of criminal defense advocates with the largest offering of criminal defense topics in Kentucky. The focus is on developing national level litigation skills and strategies.

[The Advocate](#), DPA's journal of criminal defense education and research, is published every other month and is sent to all defenders and all Kentucky judges. A wide variety of law and practice are reviewed in the journal, including Kentucky and 6th Circuit caselaw, search and seizure practice, juvenile litigation, and capital developments. DPA also publishes a [Legislative Update](#). DPA's [Evidence](#), [Preservation](#), [Expert Funds](#), and [Mental Health](#) manuals are available bar for reference.

Few firms or public defender programs offer the quality, practice-oriented education and development programs for its attorneys as does DPA. We are committed to insuring our attorneys have the best legal knowledge and litigation skills. DPA education efforts are recognized nationally, and are led by Ed Monahan, Deputy Public Advocate and Jeff Sherr, Education Branch Manager.

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Rebecca Ballard DiLoreto graduated from Amherst College, magna cum laude in 1981 and from University of Kentucky College of Law in 1985. She began with the Department as a law clerk in 1984. Rebecca worked in the Richmond Trial Office for five years. From there she joined the Appellate Branch in 1990 and in 1991 became the Department's Recruiter while remaining in the Appellate Branch. In June of 1996 Rebecca headed up a newly created Juvenile Post Dispositional Branch. In March of 1997, Rebecca became director of OPA's newly created Post-Trial Division which encompasses the Appellate Branch, Adult Post-Conviction Branch, and Juvenile Post-Disposition Branch. Rebecca has been a member of Kentucky Association of Criminal Defense Lawyers since 1986. She was chair of KACDL education committee from 1994 through 1998 and president from 1999-2001. She is a member of the National Association of Criminal Defense Lawyers and the mother of three DiLoreto's.

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Jeff Sherr, Manager of the Education and Strategic Planning Branch, Department of Public Advocacy. Jeff has been with the DPA since 1994, starting first as a law clerk, then working with the Juvenile Post Dispositional Unit, then in the trial division with the Stanford Field Office, and now in Frankfort with the education staff. He specializes in teaching performance and storytelling techniques to attorneys. Recently, Jeff has developed facilitation and brainstorming skills to assist lawyers and leaders in decision making. Jeff also has an extensive background in theatre having studied with the National Shakespeare Conservatory and the University of Kansas.

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KY Office of Public Advocacy

THE LOUISVILLE-JEFFERSON COUNTY PUBLIC DEFENDER'S OFFICE

Louisville is located in Jefferson County and is the largest city in the state. It is situated on the Ohio River, and the downtown area is anchored by a newly restored riverfront park and entertainment center. The city itself developed outward from the river and around a beautiful metropolitan parks system designed by renowned landscape architect Frederick Law Olmsted. Louisville is a city of many and diverse neighborhoods with wonderful and historic architecture, both residential and commercial. Cultural offerings are numerous and varied, including the Kentucky Center for the Arts, Actor's Theatre of Louisville, the Speed Museum of Art, the Louisville Orchestra, and the Louisville Science Center, among others. Louisville is also home to the 2-time NCAA Champion University of Louisville Cardinals basketball team coached by Rick Pitino, Churchill Downs and the Kentucky Derby, the PGA Championship Valhalla Golf Course, the Louisville Slugger Baseball Museum, and the soon-to-be completed Muhammad Ali Center. Louisville and Jefferson County are consistently ranked at or near the top in national surveys measuring cost of living, quality of life, and best places to work and reside.

The Louisville-Jefferson County Public Defender Corporation is a non-profit organization rendering legal services to indigent adults and juveniles accused of crimes, status offenses or subjected to involuntary hospitalization due to mental illness. The office functions as a full-service law firm providing defense representation in all state courts at every level, as well as appellate advocacy in both the state and federal courts. The office was organized in 1972, and enabling legislation was passed that same year creating a statewide public defender system. Staff members of the Jefferson County Public Defender have received numerous professional awards and the office has been nationally recognized as a model program. Among other noteworthy achievements, its attorneys have argued seven (7) cases before the Supreme Court of the United States, including *Batson v. Kentucky*.

Daniel T. Goyette is the Chief Public Defender for Jefferson County and has served as Executive Director of the Louisville-Jefferson County Public Defender Corporation since 1982. A former Assistant Commonwealth's Attorney, he was a member of the original Career Criminal Bureau. Dan is a past president of both

the Louisville Bar Association and the Louisville Bar Foundation. He has served as a member of the ABA House of Delegates and the ABA Standing Committee on Ethics and Professional Responsibility. Since 1979, he has been a member of the adjunct faculty at the University of Louisville Brandeis School of Law, and he has lectured on a variety of legal issues and topics both locally and nationally. Dan is a charter Board member of the Kentucky Association of Criminal Defense Lawyers and a past president of the Kentucky Academy of Justice. Among other organizations, he has chaired Citizens for Better Judges and Leadership Education. He is a past recipient of the Department of Public Advocacy's Gideon Award and the American Bar Association's Dorsey Award for his outstanding service as Public Defender. Dan is a graduate of Marquette University (1971), the Rome Center of Liberal Arts, and the University of Oklahoma School of Law (1974).

For more information about employment opportunities with the Jefferson County Public Defender's Office, contact Dan Goyette at 200 Advocacy Plaza, 719 West Jefferson Street, Louisville, Kentucky 40202, (502) 574-3800 or (502) 574-3720; Fax (502) 574-4052; or Email: goyette@thepoint.net.

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Maureen Fitzgerald has been the Director of the Protection & Advocacy (P & A) Division since April 1997. She received her B.S. in special education from George Peabody College, Vanderbilt University in 1974 and an M.S.S.W. from Kent School, University of Louisville in 1979. She was a P & A advocate and supervisor for 15 1/2 years before becoming Director. She previously was a Peace Corps Volunteer in Costa Rica and a special education teacher in LaRue County, KY. In 1986, she left P & A for 18 months to serve as the Social Services Supervisor at the Children's Residential Program of the St. Joseph Orphan Society in Louisville.

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Kentucky Protection & Advocacy

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Our Mission:

To protect and promote the rights of Kentuckians with disabilities through legally based individual and systemic advocacy, and education.

Who we are and what we do

Protection and Advocacy (P&A) is an independent state agency that was designated by the Governor as the protection and advocacy agency for Kentucky. P&A's staff includes professional advocates and attorneys. We are advocates working together with people who have disabilities to promote and protect their legal rights. Through our information and referral services, we try to answer questions about your rights under disability laws.

About this site

The headings below are links to section pages. After each heading is a short description of the material contained in each section. There is also a search box in the top-right corner of each page.

• [P&A information](#)

Background information on P&A, what we do and how we work.

- [Introduction to P&A](#)
 - [En Español](#)
- [How to contact us](#)

- **Benefits**

Information about the major Government benefits programs and how they apply to people with disabilities. Information is available on Medicaid, Medicare, and Social Security.

- **Community**

Information about issues important to people with disabilities living in the community, or who should be living in the community; such as employment, housing, and "Olmstead" issues.

- **Education**

Information about public education programs and issues from pre-school to university.

- **Guardianship**

Information about the rights and procedures related to having a legal guardian in Kentucky.

- **Institution**

Information about the rights and issues concerning people living in institutional settings.

- **How to do things**

Information about how to get appropriate disability related services, including negotiation and complaint procedures.

- **[Assistive technology](#)**

Information on what assistive technology can do for children and adults, and how to work with funding sources

- **[Self Advocacy](#)**

Information on how to be your own advocate, including how to file an Advance Directive for Mental Health Treatment.

- **[Voting Rights](#)**

Information on how to exercise your right to vote and what to expect at your polling place

- **Calendar**

Disability related events around the state.

- **News**

Information about changes in disability related services and issues, as well as news about P&A. We also have links to national sources of disability-related news and opinion.

- **[The "Rights Advocate" newsletter](#)**

This is the newsletter that is published by P&A and covers disability-related issues in Kentucky, as well as providing news about P&A

- **[Headline news about disability issues](#)**

Links to disability-related news stories on other sites

- **Links**

Other sources of information on the internet about a number of disability related areas.

- **Publications**

A central listing of training materials and investigative reports produced by P&A.

- **Contact**

There are a number of ways to reach us.

- **Protección y Abogacía en Español**

información, publicaciones y enlaces en español

WWW www.kypa.net

New on the site

- » **[Headline news about disability issues](#)** Links to disability-related news stories on other sites
- » **[Protección y Abogacía en Español](#)** información, publicaciones y enlaces en español
- » **[New Voting Rights section](#)** Information on how to exercise your right to vote and what to expect at your polling place
- » **[Your Voice: Your Vote](#)** — Your vote counts! People with disabilities have the right to vote. Learn about voting today. One person can make the difference!— **[In Word](#)**

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Kentucky Revised Statutes List by Section

Statutes Last Updated July 16, 2004

Includes Enactments through the 2004 Regular Session

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KRS Chapter 031.00

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[.010 Department of Public Advocacy -- Establishment -- Functions --
Independent agency.](#)

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[.015 Public Advocacy Commission -- Appointment -- Members -- Terms --
Compensation -- Duties.](#)

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[.020 Qualifications -- Selection -- Term -- Salary -- Staff.](#)

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.025 Repealed, 2002.

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.030 Authority and duties of department.

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.035 Advisory boards for protection and advocacy division -- Appointment --
Number -- Terms -- Compensation.

-

.040 Repealed, 1974.

-

.050 Public advocacy plans -- Review and approval or denial by public advocate
-- Funding by department and governmental unit -- Recordkeeping -- Annual
report.

-

.051 Repealed, 2002.

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.060 Local office in county with ten or more Circuit Judges required -- Funding by governmental unit required in amount set by department.

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.065 Local office in county with less than ten Circuit Judges discretionary -- Methods of delivering services -- Requirements if county elects -- Department's responsibility if county does not elect.

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.070 Renumbered as 31.235.

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.071 Requirement if county elects local office -- Failure to provide attorney -- Responsibility for payment.

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.080 Repealed, 2002.

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.085 Plans must comply with department's rules and regulations.

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[.100 Definitions.](#)

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[.110 Persons entitled to department representation and services -- Extent of representation and services.](#)

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[.120 Determination of whether person needy -- Factors for determination -- Affidavit of indigency.](#)

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[.125 Determination of indigency of child's custodian -- Payment for defense of child -- Exceptions.](#)

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[.130 Repealed, 2002.](#)

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.185 Facilities available to department -- Ex parte request for funds for representation -- Funding responsibility -- Finance and Administration special account and payment.

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.190 Repealed, 2002.

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.200 Repealed, 2002.

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.210 Repealed, 2002.

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.211 Determination of ability to pay partial fee for representation and services at arraignment -- Collection of unpaid partial fee by civil judgment -- Partial fee credited to local office or department -- Funds placed in special trust and agency account.

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.215 Acceptance of fees by public advocacy attorneys prohibited -- Exceptions.

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[.220 When chapter applies to United States courts.](#)

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KY Office of Public Advocacy

OPA DEFENDER MISSION STATEMENT

Provide each client with high quality services through an effective delivery system, which ensures a defender staff dedicated to the interests of their clients and the improvement of the criminal justice system.

DPA DIVISION MISSION STATEMENTS

Law Operations

As a team, effectively and efficiently provide all critical support services to our internal and external DPA customers to meet the agency's mission of high quality representation of clients.

Trials

Serve as leaders of the criminal defense bar in every community across the Commonwealth by providing high-quality representation for every client facing loss of life or liberty at the trial level.

Post-Trials

Through high-quality representation, defend the life and liberty

of post-trial clients and protect the statutory and constitutional rights of those the state has incarcerated or confined.

Office of Public Advocacy's LONG-TERM GOALS

A. Adequate funding. Achieve adequate funding for all components of the statewide public defender system to insure ethical workloads and salary and resource parity with the other components of the justice system.

B. Quality Full-Time Representation in Partnership with the Private Bar. Provide high quality representation to clients through an effective and well-managed delivery system comprised of full-time defenders working in partnership with the private criminal defense bar.

C. Quality Capital Representation. Provide high-quality representation to clients facing loss of life.

D. Quality Juvenile Representation. Provide high quality representation to youths facing loss of life or liberty.

E. Professionalism & Excellence. Create a professional work environment that values, retains and recruits quality employees, and respects the dignity of our clients. Education, continuous learning and leadership improvements are essential.

F. Criminal Defense Perspectives. Provide constitutional and criminal defense perspectives on significant legislative, judicial, and executive issues relating to criminal justice.

G. Effective Organization. Build a statewide defender organization that is well led.

Department of Public Advocacy Defender Core Values and Vision Statements

COMMITMENT TO CLIENTS. We are dedicated to serving our clients through every aspect of our organization.

HIGH QUALITY. We provide high quality representation and services to individual clients, external constituents, and staff.

INTEGRITY. We achieve our agency's mission by fulfilling our individual responsibilities and being trustworthy and ethical in all our dealings.

STAFF PROFESSIONALISM. We fulfill our responsibilities in accordance with relevant ethical, moral, and professional standards.

INDEPENDENCE AND INTERDEPENDENCE. We operate under a rule of professional conduct, which requires independent representation of our clients. We also work interdependently within the statewide public defender program and with other professionals in the executive, legislative and judicial branches, and with the people of the Commonwealth, to advance the interests of our clients.

DEFENDER COMMONALITY. We recognize that we are all in this together, and affirm defender commonality rather than parochial interests.

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KYOffice of Public Advocacy

The Public Value of Kentucky Public Defenders

Public defenders provide significant value to the people of Kentucky. Anthony Lewis, New York Times Pulitzer Prize winning columnist, has observed that "The lawyers who make Kentucky's indigent defense system work are in a great tradition. They prove what Justice Holmes said long ago: 'It is possible to live greatly in the law.'" The values that public defenders provide to the citizens of the Commonwealth add to Kentucky's wealth in uncommon ways.

1. Fair process that brings results we can rely on in criminal cases is the service defenders provide Kentuckians.
2. Defenders help over 100,000 poor Kentuckians with their legal problems when those citizens are accused of or convicted of a crime.
3. In the district and circuit courts in all 120 counties and in the Kentucky Supreme Court and Court of Appeals, defenders serve the Courts' need to fully understand both sides of the dispute before the decision is made.
4. Defenders serve the public's need for results in which they can have high confidence.
5. Defenders serve the citizens we represent by insuring their side of the dispute is fully heard and considered before their life or liberty is taken from them.
6. Defenders help children in juvenile court, addressing many of their family, educational, and social problems in order to help them become productive and law-abiding adults.
7. Defenders help the criminal justice system insure that fairness and reliability is not only what we say but what we do every day in the Courts of the Commonwealth.

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Legislative Update

Covering Criminal Justice Legal Issues

Office of Public Advocacy

On-line Edition

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2002 AOC/DPA WORKGROUP FINDINGS AND RECOMMENDATIONS Final Report June 2002

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1. Introduction

In 1999, the Blue Ribbon Group on Improving Indigent Defense in the 21st Century (Blue Ribbon Group) found that the Department of Public Advocacy (DPA) was one of the lowest funded public defender agencies in the United States but that “public defender services are constitutionally mandated” even while resources are scarce. Members of the Blue Ribbon Group included Chief Justice Joseph E. Lambert, Jefferson District Court Judge Denise M. Clayton, Phillip R. Patton, Barren County Commonwealth Attorney, and was co-chaired by Secretary of the Justice Cabinet and former Chief Justice Robert F. Stephens. The Blue Ribbon Group stated that it is important that all eligible persons desiring counsel be appointed a public defender and equally important that only those eligible be appointed counsel. The Court of Justice (COJ), the Administrative Office of the Courts (AOC) and DPA were encouraged to work cooperatively to ensure appropriate public defender appointments.

In response to this finding, the Administrative Office of the Courts and the Department of Public Advocacy agreed to establish a Workgroup to look at issues pertaining to eligibility and appointments. In addition, at the request of AOC, the Workgroup agreed to examine issues pertaining to pretrial release.

The AOC/DPA Workgroup consisted of officials of AOC and DPA, as well as 6 district court judges. The AOC/DPA Workgroup met 5 times during late 2001 and early 2002 for over 12 hours of discussions.

Members of the Workgroup were: Cicely Lambert, Melinda Wheeler, Ed Crockett, Mike Losavio, Jacquie Heyman, Judge George Davis, Judge Mike Collins, Judge Carl Hurst, Judge Bruce Petrie, Judge John Knox Mills, Judge William P. Ryan (Judge Deborah DeWeese in his absence), Ernie Lewis, Judy Campbell, Ed Monahan, Jim Cox, Lynda Campbell, Scott West, Rob Sexton, Joseph Barbieri, Dan Goyette, and George Sornberger. The Findings and Recommendations contained in this document reflect the consensus opinion of this workgroup and do not necessarily represent the positions of organizations with which members are

affiliated.

The AOC/DPA Workgroup has agreed on the following Findings and Recommendations.

2. Findings

2A. Findings on Eligibility

1. *Gideon v. Wainwright*, 372 U.S. 335 (1963) establishes that those who are “financially unable to employ counsel” must be provided counsel by the state. *Alabama v. Shelton*, 122 S.Ct. 1764 (2002) has recently affirmed *Gideon* by holding that an accused is entitled to the guiding hand of appointed counsel even where the court intends to impose only a suspended sentence.

2. The time immediately after the arrest until he or she appears in front of a magistrate is a particularly important time to ensure that a variety of safeguards are taken. ABA Standards for Criminal Justice Providing Defense Services, 3rd Edition (1992) in Standard 5-6.1 states that “Counsel should be provided to the accused as soon as feasible and, in any event, after custody begins, at appearance before a committing magistrate, or when formal charges are filed, which occurs earliest.”

3. One of the primary reasons for providing counsel at the earliest possible time is to enable the attorney to perform her duties of attempting to secure pretrial release. Guideline 2.1 of the NLADA Performance Guidelines for Criminal Defense Representation (1995) states that the “attorney has an obligation to attempt to secure the pretrial release of the client under the conditions most favorable and acceptable to the client.” The Commentary notes why this is important: “The importance of counsel’s early entry into criminal proceedings for the purpose of seeking bail has been noted in caselaw. The client’s freedom on bail is important to counsel’s representation of the client during the investigative /preparatory stages of the case.”

4. RCr 3.05 requires counsel to be appointed “where the crime of which the defendant is charged is punishable by confinement and the defendant is financially unable to employ counsel.”

5. KRS 31.100(3)(a) requires counsel to be appointed for a person “who at the time his need is determined is unable to provide for the payment of an attorney and all other necessary expenses of representation.”

6. KRS 31.120 recently was revised by the 2002 General Assembly. Several additional factors have been listed for the court to consider in determining whether an individual is a needy person for the purpose of appointment of counsel. The provision establishing certain factors as “prima facie evidence that a person is not indigent or needy” has been repealed and is no longer part of the revised statute.
7. Waivers of counsel are legitimate so long as KRS 31.140 is followed. When advising accused persons in a group setting, the Court should thereafter individually inquire of each defendant whether counsel is desired. “The court shall consider such factors as the person’s age, education, and familiarity with English, and the complexity of the crime involved.” KRS 31.140
8. House Bill 146 of the 2002 General Assembly establishes that all children who are charged with a felony or a sex offense or whose liberty is to be taken away have a mandatory right to counsel that cannot be waived.
9. KRS 431.515 requires pretrial release officers “where practical, to assist in the earliest possible determination of whether a person is a needy person under KRS Chapter 31.”
10. *Fraser v. Commonwealth, Ky.*, 59 S.W.3d 448 (2001) states that the decision to appoint a public defender for an indigent accused is a judicial rather than a legislative responsibility. However, *Fraser* also holds that the General Assembly can establish other eligible clients for public defender services if the General Assembly is willing to fund the additional responsibility.
11. *West v. Commonwealth, Ky.*, 887 S.W. 2d 338 (1994) allows for counsel to participate at the suspicion stage under KRS 31.110(1).
12. The eligibility determination is a vital stage of criminal proceedings. There is an inherent tension at this stage between the need for uniformity among all courts and the retention of discretion by the judge. It is important that the decision to appoint counsel or not be made by a judge using his/her informed discretion and utilizing sufficient facts to make a reasonable decision.
13. Neither the under-appointment nor the over-appointment of public defenders is a responsible use of public resources.
14. The timing of the filling out of the affidavit of indigency can effect significantly the quality of the information in the affidavit.
15. There is no mechanism in place at the current time to verify information on the affidavit of indigency. Further, there is no method in place to notarize the affidavit or provide necessary

assistance to defendants in completing the form.

16. Pretrial release officers do not now interview juvenile clients, and thus affidavits of indigency are not being completed for most juveniles. Juvenile judges through the use of questioning are making eligibility determinations.

17. Filling out the affidavit of indigency operates as a request for counsel.

18. DPA directing attorneys, heads of urban offices, and contract administrators are in a unique position to communicate with judges regarding any perceived problems with the appointing practices and procedures in particular courts.

19. Some persons arrested in Kentucky are held without a probable cause determination before a judge within 48 hours of being arrested.

2B. Findings on Pretrial Release

1. The creation of a more equitable system of pretrial release for Kentucky has enhanced our system of criminal justice. The previous system of commercial surety resulted in release decisions based solely on financial resources in lieu of community interests. Risk of flight and danger to the community are not necessarily reduced by imposing financial standards on the defendant.

2. The comprehensive analysis in Kentucky on all types of release, both financial and nonfinancial, demonstrate that nonfinancial release appearances are more effective in returning defendants before the Court. FTA Study, 54th Judicial Circuit, by Ed Crockett, Kentucky AOC. National standards indicate failure to appear rates of 30% or greater compared to Kentucky's statewide rate of 8% for nonfinancial release. Felony Defendants in Large Urban Counties, BJS, (1998).

3. The Constitution of the Commonwealth of Kentucky Section 16 provides a right to bail: "All prisoners shall be bailable by sufficient securities, unless for capital offenses when the proof is evident or the presumption great."

4. RCr 4.02 provides: "All persons shall be bailable before conviction, except when death is a possible punishment for the offense or offenses charged, and the proof is evident or the presumption is great that the defendant is guilty."

5. RCr 4.16(1) provides that bail "shall be sufficient to insure compliance with the conditions of

release set by the court. It shall not be oppressive and shall be commensurate with the gravity of the offense charged. In determining such amount the court shall consider the defendant's reasonably anticipated conduct if released and the defendant's financial ability to give bail."

6. KRS 431.525(1) provides that bail should be (1) "sufficient to insure compliance with the conditions of release set by the court; (2) not oppressive; (3) commensurate with the nature of the offense charged; (4) considerate of the past criminal acts and the reasonably anticipated conduct of the defendant if released; and (5) considerate of the financial ability of the defendant."

7. The Kentucky Rules of Criminal Procedure have long recognized the need for expedited appeals of pretrial bail rulings to prevent hardships, inequities in release practices, and jail overcrowding.

8. The Pretrial Services Division of the Administrative Office of the Courts compiles information on the affidavit of indigency on defendants before the Court. Affidavits of indigency were obtained from 7% of those arrested in 1987 as compared to 22% in 2001.

3. Recommendations

3A. Recommendations on Eligibility

1. The decision whether to appoint a public defender should remain within the informed discretion of the judge before whom the charged person appears. This should include individuals who are in custody and persons who have been released on bond.

2. Individual rather than group questioning by the judge of the person at the first appearance should resolve the issue of whether the person is going to hire a private attorney, desires to have counsel appointed, is eligible to have counsel appointed, or desires to waive the appointment of counsel.

3. Information on access to counsel should be provided to all persons in custody by the court, by pretrial release officers and by the local public defender. See ABA Standards for Criminal Justice Providing Defense Services, 3rd Edition, Standard 5-8.1(1990).

4. The affidavit of indigency or an equivalent verbal colloquy should be required prior to appointment of a public defender whether the individual is in custody or on pretrial release and whether the person is an adult or a juvenile. Each jurisdiction should develop a protocol for bringing to the attention of the judge the affidavit of indigency.
5. The affidavit of indigency should be prepared at an interview when the defendant is not under the influence of alcohol or drugs or otherwise unable to rationally participate in the interview.
6. A mechanism should be in place to verify financial information when requested by the Court. In order to provide these services, the Pretrial Service Agency will need additional resources.
7. Appointing a public defender should be based solely on the financial circumstances of the accused person rather than any other factor such as whether the person is on bond or the expeditious processing of the court docket.
8. Waiver of counsel should occur only after an individualized colloquy with the court, and only after the court is assured that the defendant is fully informed regarding his right to counsel and the consequences of his waiver. The failure to request counsel should not be considered to be a waiver. See ABA Standards for Criminal Justice Providing Defense Services, 3rd Edition, Standard 5-8.2 (1990).
9. Counsel should report to the Court any information discovered which significantly and adversely affects a defendant's financial eligibility for court appointed counsel. However, counsel shall not report the information protected by the Kentucky Rules of Professional Conduct (SCR 3.130) or KRE 503 (lawyer-client privilege).
10. A point system may be used to determine eligibility such as the one used in Jefferson County. AOC, DPA and Judges should develop such an eligibility point system to be piloted in some jurisdictions.
11. Pretrial Services should increase the percentage of affidavits of indigency collection to 30% within 2002-2004.
12. The Fourth Amendment, *Riverside County of Riverside v. McLaughlin*, 500 U.S. 44, 111 S. Ct. 1661, 114 L. Ed. 2d 49 (1991) and *Gerstein v. Pugh*, 420 U.S. 103, 95 S. Ct. 854, 43 L. Ed. 2d 54 (1975) require that there be probable cause to detain an individual charged and arrested without a warrant for a criminal offense. Probable cause in this context means that the charging document properly states a criminal offense and that there is factual information to support the arrest of the particular individual who has been charged. This type of probable cause determination must be done within 48 hours and can be accomplished at or before arraignment

by a review of the citation or post-arrest complaint or by a phone call between the pretrial release officer and the judge or trial commissioner. This probable cause determination is separate and apart from a preliminary hearing as required by RCr 3.10 & 3.14.

3B. Recommendations on Pretrial Release

1. Judges should have more information from Pretrial Release Officers than just basic interview information and points. Recommendations made by the Pretrial Release officers to the Judges should be broadened to include non-financial alternatives regardless of eligibility.
2. Pretrial Release Officers should intensify their efforts to apprise the Judges of defendants not released (subsequent to the current twenty-four hour review process) through frequent reviews with the judges about bond.
3. The waiver for the release of interview information and points to attorney of record should be incorporated into the current consent for interview. The order appointing counsel for the Defendant shall direct the pretrial officer to provide counsel with a copy of the pretrial services interview form.
4. There should be full review on the timing, collection and process for collecting information on the Affidavit of Indigency. A copy of the affidavit should be given directly to the Public Defender upon request of the defendant or entry of an order of appointment by the court.
5. The Court of Justice should analyze the current forfeiture process for secured and unsecured bail in the Commonwealth of Kentucky.
6. AOC should conduct pilot projects to analyze the effectiveness of the point system as a predictor of appearance in urban, suburban and rural settings.
7. Notification procedures on pretrial appearances subsequent to arraignment of the defendant on non-financial releases should be increased.
8. An automated interview/case management process should be developed by AOC for information collected on defendants. An electronic means of sharing appropriate Information, including the Affidavit of Indigency, should be developed in consultation with DPA.
9. Defendants should be represented by counsel at their arraignment where pretrial release is determined, and there should be adequate resources provided to support effective implementation of such representation by counsel for indigent defendants. Arraignment should be held expeditiously.

3C. Recommendations on Eligibility and Pretrial Release

1. Defenders, prosecutors, pretrial release officers, and judges should be educated by AOC, Prosecutor Advisory Council, and DPA education personnel on eligibility and pretrial release issues.

4. Conclusion

The AOC/DPA Workgroup urges implementation of these Eligibility and Pretrial Release Recommendations for the benefit of the Kentucky Criminal Justice System and the people of Kentucky.

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Juvenile Indigent Defense - Kentucky

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<p>Adopted by ABA House of Delegates February 5, 2002</p>

AMERICAN BAR ASSOCIATION

**STANDING COMMITTEE ON LEGAL AID AND INDIGENT DEFENDANTS
CRIMINAL JUSTICE SECTION
GOVERNMENT AND PUBLIC SECTOR LAWYERS DIVISION
STEERING COMMITTEE ON THE UNMET LEGAL NEEDS OF CHILDREN
COMMISSION ON RACIAL AND ETHNIC DIVERSITY IN THE PROFESSION
STANDING COMMITTEE ON PRO BONO AND PUBLIC SERVICE**

REPORT TO THE HOUSE OF DELEGATES

RECOMMENDATION

1 **RESOLVED**, That the American Bar Association adopts or reaffirms THE TEN
2 PRINCIPLES OF A PUBLIC DEFENSE DELIVERY SYSTEM, dated February 2002, which
3 constitute the fundamental criteria to be met for a public defense delivery system to deliver
4 effective and efficient, high quality, ethical, conflict-free representation to accused persons who
5 cannot afford to hire an attorney.

6 **FURTHER RESOLVED**, That the American Bar Association recommends that each
7 jurisdiction use THE TEN PRINCIPLES OF A PUBLIC DEFENSE DELIVERY SYSTEM,
8 dated February 2002, to assess promptly the needs of its public defense delivery system and
9 clearly communicate those needs to policy makers.

THE TEN PRINCIPLES OF A PUBLIC DEFENSE DELIVERY SYSTEM

FEBRUARY 2002

THE TEN PRINCIPLES OF A PUBLIC DEFENSE DELIVERY SYSTEM

February 2002

1. The public defense function, including the selection, funding, and payment of defense counsel,¹ is independent. The public defense function should be independent from political influence and subject to judicial supervision only in the same manner and to the same extent as retained counsel.² To safeguard independence and to promote efficiency and quality of services, a nonpartisan board should oversee defender, assigned counsel, or contract systems.³ Removing oversight from the judiciary ensures judicial independence from undue political pressures and is an important means of furthering the independence of public defense.⁴ The selection of the chief defender and staff should be made on the basis of merit, and recruitment of attorneys should involve special efforts aimed at achieving diversity in attorney staff.⁵

2. Where the caseload is sufficiently high,⁶ the public defense delivery system consists of both a defender office⁷ and the active participation of the private bar. The private bar participation may include part time defenders, a controlled assigned counsel plan, or contracts for services.⁸ The appointment process should never be ad hoc,⁹ but should be according to a coordinated plan directed by a full-time administrator who is also an attorney familiar with the

¹ “Counsel” as used herein includes a defender office, a criminal defense attorney in a defender office, a contract attorney or an attorney in private practice accepting appointments. “Defense” as used herein relates to both the juvenile and adult public defense systems.

² National Advisory Commission on Criminal Justice Standards and Goals, Task Force on Courts, Chapter 13, *The Defense* (1973) [hereinafter “NAC”], Standards 13.8, 13.9; National Study Commission on Defense Services, *Guidelines for Legal Defense Systems in the United States* (1976) [hereinafter “NSC”], Guidelines 2.8, 2.18, 5.13; American Bar Association Standards for Criminal Justice, *Providing Defense Services* (3rd ed. 1992) [hereinafter “ABA”], Standards 5-1.3, 5-1.6, 5-4.1; *Standards for the Administration of Assigned Counsel Systems* (NLADA 1989) [hereinafter “Assigned Counsel”], Standard 2.2; NLADA *Guidelines for Negotiating and Awarding Contracts for Criminal Defense Services*, (1984) [hereinafter “Contracting”], Guidelines II-1, 2; National Conference of Commissioners on Uniform State Laws, *Model Public Defender Act* (1970) [hereinafter “Model Act”], § 10(d); Institute for Judicial Administration/American Bar Association, *Juvenile Justice Standards Relating to Counsel for Private Parties* (1979) [hereinafter “ABA Counsel for Private Parties”], Standard 2.1 (D).

³ NSC, *supra* note 2, Guidelines 2.10-2.13; ABA, *supra* note 2, Standard 5-1.3(b); Assigned Counsel, *supra* note 2, Standards 3.2.1, 2; Contracting, *supra* note 2, Guidelines II-1, II-3, IV-2; Institute for Judicial Administration/American Bar Association, *Juvenile Justice Standards Relating to Monitoring* (1979) [hereinafter “ABA Monitoring”], Standard 3.2.

⁴ Judicial independence is “the most essential character of a free society” (American Bar Association Standing Committee on Judicial Independence, 1997).

⁵ ABA, *supra* note 2, Standard 5-4.1

⁶ “Sufficiently high” is described in detail in NAC Standard 13.5 and ABA Standard 5-1.2. The phrase can generally be understood to mean that there are enough assigned cases to support a full-time public defender (taking into account distances, caseload diversity, etc.), and the remaining number of cases are enough to support meaningful involvement of the private bar.

⁷ NAC, *supra* note 2, Standard 13.5; ABA, *supra* note 2, Standard 5-1.2; ABA Counsel for Private Parties, *supra* note 2, Standard 2.2. “Defender office” means a full-time public defender office and includes a private nonprofit organization operating in the same manner as a full-time public defender office under a contract with a jurisdiction.

⁸ ABA, *supra* note 2, Standard 5-1.2(a) and (b); NSC, *supra* note 2, Guideline 2.3; ABA, *supra* note 2, Standard 5-2.1.

⁹ NSC, *supra* note 2, Guideline 2.3; ABA, *supra* note 2, Standard 5-2.1.

varied requirements of practice in the jurisdiction.¹⁰ Since the responsibility to provide defense services rests with the state, there should be state funding and a statewide structure responsible for ensuring uniform quality statewide.¹¹

3. Clients are screened for eligibility,¹² and defense counsel is assigned and notified of appointment, as soon as feasible after clients' arrest, detention, or request for counsel. Counsel should be furnished upon arrest, detention or request,¹³ and usually within 24 hours thereafter.¹⁴

4. Defense counsel is provided sufficient time and a confidential space with which to meet with the client. Counsel should interview the client as soon as practicable before the preliminary examination or the trial date.¹⁵ Counsel should have confidential access to the client for the full exchange of legal, procedural and factual information between counsel and client.¹⁶ To ensure confidential communications, private meeting space should be available in jails, prisons, courthouses and other places where defendants must confer with counsel.¹⁷

5. Defense counsel's workload is controlled to permit the rendering of quality representation. Counsel's workload, including appointed and other work, should never be so large as to interfere with the rendering of quality representation or lead to the breach of ethical obligations, and counsel is obligated to decline appointments above such levels.¹⁸ National caseload standards should in no event be exceeded,¹⁹ but the concept of workload (i.e., caseload

¹⁰ ABA, *supra* note 2, Standard 5-2.1 and commentary; Assigned Counsel, *supra* note 2, Standard 3.3.1 and commentary n.5 (duties of Assigned Counsel Administrator such as supervision of attorney work cannot ethically be performed by a non-attorney, citing ABA Model Code of Professional Responsibility and Model Rules of Professional Conduct).

¹¹ NSC, *supra* note 2, Guideline 2.4; Model Act, *supra* note 2, § 10; ABA, *supra* note 2, Standard 5-1.2(c); *Gideon v. Wainwright*, 372 U.S. 335 (1963) (provision of indigent defense services is obligation of state).

¹² For screening approaches, see NSC, *supra* note 2, Guideline 1.6 and ABA, *supra* note 2, Standard 5-7.3.

¹³ NAC, *supra* note 2, Standard 13.3; ABA, *supra* note 2, Standard 5-6.1; Model Act, *supra* note 2, § 3; NSC, *supra* note 2, Guidelines 1.2-1.4; ABA Counsel for Private Parties, *supra* note 2, Standard 2.4 (A).

¹⁴ NSC, *supra* note 2, Guideline 1.3.

¹⁵ American Bar Association Standards for Criminal Justice, *Defense Function* (3rd ed. 1993) [hereinafter "ABA Defense Function"], Standard 4-3.2; *Performance Guidelines for Criminal Defense Representation* (NLADA 1995) [hereinafter "Performance Guidelines"], Guidelines 2.1-4.1; ABA Counsel for Private Parties, *supra* note 2, Standard 4.2.

¹⁶ NSC, *supra* note 2, Guideline 5.10; ABA Defense Function, *supra* note 15, Standards 4-2.3, 4-3.1, 4-3.2; Performance Guidelines, *supra* note 15, Guideline 2.2.

¹⁷ ABA Defense Function, *supra* note 15, Standard 4-3.1.

¹⁸ NSC, *supra* note 2, Guideline 5.1, 5.3; ABA, *supra* note 2, Standards 5-5.3; ABA Defense Function, *supra* note 15, Standard 4-1.3(e); NAC, *supra* note 2, Standard 13.12; Contracting, *supra* note 2, Guidelines III-6, III-12; Assigned Counsel, *supra* note 2, Standards 4.1, 4.1.2; ABA Counsel for Private Parties, *supra* note 2, Standard 2.2 (B) (iv).

¹⁹ Numerical caseload limits are specified in NAC Standard 13.12 (maximum cases per year: 150 felonies, 400 misdemeanors, 200 juvenile, 200 mental health, or 25 appeals), and other national standards state that caseloads should "reflect" (NSC Guideline 5.1) or "under no circumstances exceed" (Contracting Guideline III-6) these numerical limits. The workload demands of capital cases are unique: the duty to investigate, prepare and try both the guilt/innocence and mitigation phases today requires an average of almost 1,900 hours, and over 1,200 hours even where a case is resolved by guilty plea. *Federal Death Penalty Cases: Recommendations Concerning the Cost and Quality of Defense Representation* (Judicial Conference of the United States, 1998). See also *ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases* (1989) [hereinafter "Death Penalty"].

adjusted by factors such as case complexity, support services, and an attorney's nonrepresentational duties) is a more accurate measurement.²⁰

6. Defense counsel's ability, training, and experience match the complexity of the case.

Counsel should never be assigned a case that counsel lacks the experience or training to handle competently, and counsel is obligated to refuse appointment if unable to provide ethical, high quality representation.²¹

7. The same attorney continuously represents the client until completion of the case. Often referred to as "vertical representation," the same attorney should continuously represent the client from initial assignment through the trial and sentencing.²² The attorney assigned for the direct appeal should represent the client throughout the direct appeal.

8. There is parity between defense counsel and the prosecution with respect to resources and defense counsel is included as an equal partner in the justice system. There should be parity of workload, salaries and other resources (such as benefits, technology, facilities, legal research, support staff, paralegals, investigators, and access to forensic services and experts) between prosecution and public defense.²³ Assigned counsel should be paid a reasonable fee in addition to actual overhead and expenses.²⁴ Contracts with private attorneys for public defense services should never be let primarily on the basis of cost; they should specify performance requirements and the anticipated workload, provide an overflow or funding mechanism for excess, unusual or complex cases,²⁵ and separately fund expert, investigative and other litigation support services.²⁶ No part of the justice system should be expanded or the workload increased without consideration of the impact that expansion will have on the balance and on the other components of the justice system. Public defense should participate as an equal partner in improving the justice system.²⁷ This principle assumes that the prosecutor is adequately funded and supported in all respects, so that securing parity will mean that defense counsel is able to provide quality legal representation.

²⁰ ABA, *supra* note 2, Standard 5-5.3; NSC, *supra* note 2, Guideline 5.1; *Standards and Evaluation Design for Appellate Defender Offices* (NLADA 1980) [hereinafter "Appellate"], Standard 1-F.

²¹ Performance Guidelines, *supra* note 11, Guidelines 1.2, 1.3(a); Death Penalty, *supra* note 15, Guideline 5.1.

²² NSC, *supra* note 2, Guidelines 5.11, 5.12; ABA, *supra* note 2, Standard 5-6.2; NAC, *supra* note 2, Standard 13.1; Assigned Counsel, *supra* note 2, Standard 2.6; Contracting, *supra* note 2, Guidelines III-12, III-23; ABA Counsel for Private Parties, *supra* note 2, Standard 2.4 (B) (i).

²³ NSC, *supra* note 2, Guideline 3.4; ABA, *supra* note 2, Standards 5-4.1, 5-4.3; Contracting, *supra* note 2, Guideline III-10; Assigned Counsel, *supra* note 2, Standard 4.7.1; Appellate, *supra* note 20 (*Performance*); ABA Counsel for Private Parties, *supra* note 2, Standard 2.1 (B) (iv). See NSC, *supra* note 2, Guideline 4.1 (includes numerical staffing ratios, e.g., there must be one supervisor for every 10 attorneys, or one part-time supervisor for every 5 attorneys; there must be one investigator for every three attorneys, and at least one investigator in every defender office). Cf. NAC, *supra* note 2, Standards 13.7, 13.11 (chief defender salary should be at parity with chief judge; staff attorneys at parity with private bar).

²⁴ ABA, *supra* note 2, Standard 5-2.4; Assigned Counsel, *supra* note 2, Standard 4.7.3.

²⁵ NSC, *supra* note 2, Guideline 2.6; ABA, *supra* note 2, Standards 5-3.1, 5-3.2, 5-3.3; Contracting, *supra* note 2, Guidelines III-6, III-12, and *passim*.

²⁶ ABA, *supra* note 2, Standard 5-3.3(b)(x); Contracting, *supra* note 2, Guidelines III-8, III-9.

²⁷ ABA Defense Function, *supra* note 15, Standard 4-1.2(d).

9. Defense counsel is provided with and required to attend continuing legal education.

Counsel and staff providing defense services should have systematic and comprehensive training appropriate to their areas of practice and at least equal to that received by prosecutors.²⁸

10. Defense counsel is supervised and systematically reviewed for quality and efficiency according to nationally and locally adopted standards.

The defender office (both professional and support staff), assigned counsel, or contract defenders should be supervised and periodically evaluated for competence and efficiency.²⁹

²⁸ NAC, *supra* note 2, Standards 13.15, 13.16; NSC, *supra* note 2, Guidelines 2.4(4), 5.6-5.8; ABA, *supra* note 2, Standards 5-1.5; Model Act, *supra* note 2, § 10(e); Contracting, *supra* note 2, Guideline III-17; Assigned Counsel, *supra* note 2, Standards 4.2, 4.3.1, 4.3.2, 4.4.1; NLADA *Defender Training and Development Standards* (1997); ABA Counsel for Private Parties, *supra* note 2, Standard 2.1 (A).

²⁹ NSC, *supra* note 2, Guidelines 5.4, 5.5; Contracting, *supra* note 2, Guidelines III-16; Assigned Counsel, *supra* note 2, Standard 4.4; ABA Counsel for Private Parties, *supra* note 2, Standards 2.1 (A), 2.2; ABA Monitoring, *supra* note 3, Standards 3.2, 3.3. Examples of performance standards applicable in conducting these reviews include NLADA Performance Guidelines, ABA Defense Function, and NLADA/ABA Death Penalty.

REPORT

Introduction

“The Ten Principles of a Public Defense Delivery System” is a practical guide for governmental official, policymakers, and other parties who are charged with creating and funding new, or improving existing, systems by which public defense services are delivered within their jurisdictions.¹ More often than not, these individuals are non-lawyers who are completely unfamiliar with the breadth and complexity of material written about criminal defense law, including the multitude of scholarly national standards concerning the issue of what constitutes quality legal representation for criminal defendants. Further, they operate under severe time constraints and do not have the time to wade through the body of standards; they need quick and easy, yet still reliable and accurate, guidance to enable them to make key decisions.

As explained more fully in the sections that follow, “The Ten Principles of a Public Defense Delivery System” fulfills this need. It represents an effort to sift through the various sets of national standards and package, in a concise and easily understandable form, only those fundamental criteria that are absolutely crucial for the responsible parties to follow in order to design a system that provides effective and efficient, high quality, ethical, conflict-free legal representation for criminal defendants who are unable to afford an attorney. By adopting “The Ten Principles of a Public Defense Delivery System,” the ABA would create, for the first time ever, much-needed policy that is directed toward guiding the designers of public defense delivery systems.

The Need for ABA Policy Geared Toward Designers of Public Defense Delivery Systems

The ABA Standing Committee on Legal Aid and Indigent Defendants (SCLAID) has provided technical assistance in all 50 states to bar leaders, legislators, and others interested in improving public defense services. Through our extensive work in the states, we have learned that oftentimes, the people who have the primary responsibility for establishing or improving public defense delivery systems are not lawyers and have little or no knowledge in the area of criminal defense services. In the state legislatures, where many choices are made regarding the design and funding of these systems, there appears to be a growing trend—the number of legislators who are also lawyers (and who would therefore better understand these issues) is declining, and their terms are getting shorter.

Another trend is that in many states, the legislature, supreme court, governor, or state bar association authorizes a “study commission” or “task force” to recommend plans for establishing or improving public defense delivery systems. This is especially the case as the crisis in indigent defense—in terms of quality of services and resource availability—continues to deepen across the country. These task forces generally have broad representation from all

¹ “The Ten Principles of a Public Defense Delivery System” are based on a paper entitled *The Ten Commandments of Public Defense Delivery Systems*, which was written by James R. Neuhard, Director of the Michigan State Appellate Defender Office and former member of the ABA Standing Committee on Indigent Defendants (SCLAID), and by Scott Wallace, Director of Defender Legal Services for the National Legal Aid and Defender Association.

branches of government and many sectors of the community. For example, task forces that were recently established in North Carolina and Georgia include state legislators, judges, heads of executive agencies, private attorneys, and members of the community. In Michigan, a community organization called the Michigan Council on Crime and Delinquency has taken the lead and organized a task force composed primarily of non-defense attorney groups to recommend to the legislature a model plan for public defense services in Michigan. The commonality among all the task forces is the fact that the members volunteer their time and operate under tight deadlines within which recommendations must be made or else the window of opportunity closes, for political or other reasons.

There is no question that the people who are making these important decisions under such severe time constraints desperately need reliable guidance that is presented in an easily understandable, concise, and succinct package. SCLAID has received numerous requests for ABA policy written for and directed at the government officials and others who are responsible for designing public defense delivery systems; unfortunately, current ABA policy (in the form of numerous sets of criminal justice standards) does not address this particularized need, as explained further below.

Overview of National Standards on Providing Criminal Defense Services

The ABA was the first organization to recognize the need for standards currently relating to the provision of criminal defense services, adopting the *ABA Standards for Criminal Justice, Providing Defense Services* (now in its 3rd edition) in 1967. The *ABA Standards for Criminal Justice, Defense Function*, soon followed in 1971, and the *ABA Guidelines for Appointment and Performance of Counsel in Death Penalty Cases* were adopted in 1989.

In addition, several other organizations have adopted standards in this area over the past three decades: the National Legal Aid and Defender Association adopted its *Performance Guidelines for Criminal Defense Representation* in 1995, *Standards for the Administration of Assigned Counsel Systems* in 1989, and *Guidelines for Negotiating and Awarding Contracts for Criminal Defense Services* in 1984; the Institute of Judicial Administration collaborated with the ABA to create the *IJA/ABA Juvenile Justice Standards*, totaling 23 volumes adopted from 1979 through 1980; the National Study Commission on Defense Services adopted its *Guidelines for Legal Defense Systems in the United States* in 1976; and the President's National Advisory Commission on Criminal Justice Standards and Goals adopted Chapter 13, *The Defense*, in 1973.

Collectively, these standards contain the minimum requirements for legal representation at the trial, appeals, juvenile, and death penalty levels and are a scholarly, impressive, and extremely useful body of work. However, they are written for the most part for lawyers who provide defense services, not for governmental officials or policymakers who design the systems by which these services are delivered. As the Introduction to the *ABA Standards for Criminal Justice, Defense Function* notes, "The Defense Function Standards have been drafted and adopted by the ABA in an attempt to ascertain a consensus view of all segments of the criminal justice community about what good, professional practice is and should be. Hence, these are extremely useful standards for consultation by lawyers and judges who want to do 'the right thing' or, as important, to avoid doing 'the wrong thing.'" Further, the sheer volume of the

standards make it impracticable for policymakers or others charged with designing systems to wade through them in order to find information of relevance to their duties. Indeed, even one of the smallest of the volumes, the *ABA Standards for Criminal Justice, Defense Function*, is 71 pages in length and contains 43 black letter standards with accompanying commentary. Thus, the standards do not address the particular need for ABA policy expressly directed toward those who are responsible for designing and funding systems at the state and local levels.

The Ten Principles of a Public Defense Delivery System

“The Ten Principles of a Public Defense Delivery System” fulfills this need. If adopted by the ABA, it would provide new policy targeted specifically to the designers and funders of public defense delivery systems, giving them the clear and concise guidance that they need to get their job done.

Conclusion

Through this resolution, the American Bar Association would fulfill a critical need by providing, for the first time ever, a practical guide (“The Ten Principles of a Public Defense Delivery System”) for governmental officials, policymakers, and other parties who are charged with creating and funding new, or improving existing, systems to deliver effective and efficient, high quality, ethical, conflict-free legal representation to accused persons who cannot afford to hire an attorney.

Respectfully submitted,

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Standing Committee on Legal Aid and Indigent Defendants

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